

PRE-EMPTION RIGHTS—FRAUDS, &c.

LETTER

FROM THE

COMMISSIONER OF THE GENERAL LAND OFFICE,

UPON THE

Subject of frauds under the pre-emption laws, and the effect of such laws upon the sales of public lands, &c.

APRIL 14, 1836.

Read, and laid upon the table.

TREASURY DEPARTMENT, April 13, 1836.

SIR: In compliance with a resolution of the House of Representatives, bearing date the 11th day of February last, I have the honor to submit a report from the Commissioner of the General Land Office, accompanied by certain documents therein referred to, in answer to the several inquiries embraced in the resolution.

I have the honor to be,

Respectfully, sir,

Your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

HON. SPEAKER

Of the House of Representatives.

GENERAL LAND OFFICE, April 11, 1836.

SIR: Pursuant to your requisition, in referring to me the resolutions of the House of Representatives of the 11th of February last, requiring "that the Secretary of the Treasury be directed to communicate to this House any information in his possession of frauds or fraudulent practices, under the existing pre-emption law; and that he also inform the House what has been the effect of the pre-emption laws now in force, or heretofore passed, upon the sales of the public lands, and upon that branch of the public revenue.

"Also, the quantity of land entered or purchased in the State of Louisiana, under the pre-emption law, approved the nineteenth of June, 1834, designating the quantity entered or purchased in each land district, and

the quantity entered as *floats* in each district, under the second section of the pre-emption law, approved May 29, 1830, revived by the pre-emption law of June 19, 1834; together with copies of all documents and papers on file in the Department, relating to the official conduct of the late Register of the land office and Receiver of public moneys at Opelousas, in the aforesaid State, or either of them; also, copies of all letters written by the late Commissioner of the General Land Office, and Gideon Fitz, Esq. formerly register of the land office at Mount Salus, or Clinton, in the State of Mississippi, upon the subject of allowing pre-emptions or *floats*, under the second section of the pre-emption law, approved May 29, 1830; together with copies of all the instructions that have been given to the Registers of land offices and Receivers of public moneys, for their government in executing the pre-emption laws of 29th May, 1830, and the 19th of June, 1834.

"Also, that he communicate to the House any information in his possession respecting combinations of persons, by force or otherwise, to prevent or obstruct the sale of the public land, either at public sale or private entry."

I have the honor to report, that the written information, in possession of the General Land Office, of fraudulent practices to obtain the advantages of the pre-emption laws, is principally set forth in the printed document, No. 125, of the first session of the twenty-fourth Congress, printed by order of the House of Representatives, which I beg leave to make a part of this report, and to add such further written communications on this topic as may be found in the copies marked A, B, and C, herewith transmitted. The oral information received on this subject, consists, for the most part, of public rumor, credited and uncontradicted, without the specification and proof necessary to give it a shape for official action, as I had the honor of representing to you in my report, comprised in the document above referred to.

This office possesses no data whereby to estimate with tolerable accuracy how far the sales of public lands have been affected, in respect to quantity, by the pre-emption act of 19th of June, 1834. Considering the great demand for land within the last two years, it remains to be shown that a greater number of acres has been disposed of in that period in consequence of the privilege it confers. It is quite impossible to estimate with satisfactory accuracy the effect that has been produced on this branch of the revenue by allowing (to those who have, and pretend to, a right of preference) the choice, at the lowest rate, of distinguished sites for towns, and their vicinities, the best mill seats, and the finest farming lands, including those so highly prized for the culture of cotton.

The General Land Office has no certain data for a just calculation of the amount which the Treasury has been prevented from receiving by the operation of this law; but considering the many tens of thousands of claims that have arisen under it, and the prevailing desire in the mean while to vest money in public land, the conclusion seems fair that the selected spots would have been sold for a price proportioned to their excellence, if no such law, nor any improper conspiracy, had existed. The estimate of three millions of dollars, which I had the honor to submit to you on the 28th of January last, appears to me, now, to underrate much rather than magnify the difference between the receipts for pre-emption concessions, and the sum the same lands would have brought into the Treasury, had no impediment laid in the way of full and free competition for the purchase.

It is but just, however, to observe that the revenue from public lands has not been impaired by pre-emptions alone, and I may be allowed to remark, in this place, that the information, on the subject of the last resolution referred to me, consists of what common fame represents as avowed and notorious, to wit: that the public sales are attended by combinations of two kinds, interested in keeping bids down to the minimum; the one composed of those who have, and those who pretend to, a right of preference, and resort to intimidation by threats and actual violence, as exemplified most particularly at the public sales at Chicago, in June, 1835; when and where the controlling party is represented to have effectually prevented those from bidding who were not acceptable to themselves; the other description formed of persons associated to frustrate the views of individuals desirous of purchasing, who refuse to join their coalition or submit to their dictation, by compelling the recusants to forego their intended purchases, or give more than the market value of the lands. With the papers marked A, B, and C, heretofore referred to, are copies of letters found in the files, relating to this kind of conspiracy, which the penal enactments of the law of 31st March, 1830, have not hitherto operated to repress, in the least, so far as I have been informed.

I have the honor, in compliance with the second resolution, to annex a table, marked D, showing, as well as the records of the General Land Office permit, the quantities of land entered under the pre-emption laws, within certain periods, in three districts of Louisiana, distinguishing, so far as the returns enable the office to discriminate, those entered under the provision for that sort of claims vulgarly called "floats;" and also to transmit copies, in pursuance of that resolution, of all documents and papers on file in this office relating to the official conduct of the late Register and Receiver at Opelousas, which will be found in the letter of Benjamin F. Linton, United States District Attorney, and in an extract of a letter from — Morgan, in the document No. 125, before referred to.

The copies marked E will show all the correspondence which has taken place between the General Land Office and Gideon Fitz, late register of the land office at Mount Salus, or Clinton, relative to allowing pre-emptions or "floats" under the act of 29th May, 1830.

The printed documents herewith transmitted, marked F, are copies of the instructions which have emanated from this office to the different Registers and Receivers of the district land offices in relation to the execution of the pre-emption laws.

I have the honor to be, sir, with great respect,

Your obedient servant,

ETHAN A. BROWN,
Commissioner.

HON. LEVI WOODBURY,
Secretary of the Treasury.

Document No. 125, referred to in the foregoing.

TREASURY DEPARTMENT,
January 29, 1836.

SIR: I have the honor to enclose a communication from the Commissioner of the General Land Office, on the subject to which your letter of

the 16th instant relates; and to inform you that the documents referred to in the Commissioner's letter, will be transmitted as soon as they are prepared.

I am, very respectfully, sir,

Your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

Hon. A. G. HARRISON,

of the Com. on Public Lands, House of Rep.

GENERAL LAND OFFICE,

January 28, 1836.

SIR: You have been pleased to refer to me a letter from the Hon. A. G. Harrison, accompanied by a resolution of the Committee on the Public Lands; the letter advising you that a bill granting pre-emption to actual settlers, then before the committee, had been drawn with an eye particularly directed to the frauds alleged to have been committed, and expressing that the great desire of the committee, to adopt such provisions as will prevent the future possibility of such frauds, had led to the communication, believing that you may have it in your power to give additional light on the subject. The resolution of the committee aforesaid being in these words: "*Resolved, That the resolution of the House, instructing the committee 'to inquire into the expediency of modifying the different acts of Congress, granting pre-emption rights to settlers on the public lands, so as to protect the rights of settlers, and prevent frauds against the United States,' be referred to the Secretary of the Treasury; and that he be requested to furnish the committee with the best plan which occurs to him, of securing the right of pre-emption to actual settlers, and of preventing said frauds.*" I have attentively considered the said letter and resolution, and have the honor to report:

The Committee on the Public Lands apply to you, sir, for "all the information in your Department, concerning the alleged frauds."

Most of the knowledge possessed by the General Land Office, concerning frauds practised in relation to pre-emptions, of which I am now able to speak, consists of uncontradicted reports, in general currency and credit; of oral communications to me, and letters to me and others, from persons in high standing; most of the writers either requesting that their names may not be published, or not giving authority for such publication. The terms of these communications are rarely sufficiently specific and tangible to fix peculiar instances, except in the cases of interested correspondents; some of whose representations have been verified, others not; while want of time and opportunity have delayed an investigation of the greater part of this last class.

The requisition of the committee, above mentioned, is sufficiently comprehensive in terms, to include every case and its circumstances, as well as the general representations that have reached this office. I must take the liberty to observe, that a literal compliance with the requisition cannot be speedily yielded. It would render the report very voluminous, and require to search the files of an immense correspondence, and the investigation of many tens of thousands of pre-emption cases reported, which we have not yet been able to take up for examination. To particularize every

exceptionable case, even of those that have attracted attention since the act of 1834 has been in operation, would require more time in the revision and narration, than would seem to comport with the desire of the committee to act soon upon the bill alluded to by Mr. Harrison; and therefore, with your permission, I will confine myself, on this occasion, to the imputations currently believed, and general heads of impositions attempted and practised, which have been detected in some of the contested cases examined, or which common fame has represented as having been but too common in some quarters; and without comment on the conspicuous cases of the military reservation at Chicago, and the missionary stations in Mississippi, I proceed to remark that the loudest and most numerous complaints, arising from the pre-emption policy, that have reached the General Land Office, have been against the alleged abuse of the privilege commonly called floating claims. Some who claim to be the *bona fide* cultivators and occupiers under the act of 1834, complain of being vexed and disturbed by these "floats." A more numerous class, not comprised in the provisions of the act, are said not to be the less clamorous, because the floats have been *lawfully* located on their chosen spots; but chiefly the virtuous and patriotic citizens of Louisiana, have been disgusted and alarmed by the extent to which fraud and perjury is asserted to have been carried, in the manufacture of such claims within that interesting State, threatening to cover a large portion of the most valuable lands that have been surveyed. These representations are made by individuals in highly respectable standing, besides our own officers: and it is said, on credible authority, that preparations appear to be making, in hopes of a pre-emption act at this session of Congress, to acquire at a minimum cost a great part of the precious lands on Red river. No particular instance of these practices has been indicated to me, but the opinion is prevalent that they are transacted. It is believed that the number of *bona fide* pre-emptions in Louisiana is comparatively small, as information derived from persons distinguished by public confidence in that State, represents a belief that a claim to pre-emption was not often heard of on the island of New Orleans, nor west of the Mississippi, before this multiplication of "floats" was devised to be laid on the finest vacant lands.

This iniquitous scheme appears to be of late date in that region, as the first intelligence of it seems to have been communicated to the General Land Office, some time after it was placed in my charge. Agreeably to your direction, sir, circumspection and vigilance were recommended to the land officers in Louisiana, in order to guard against impositions; and I ventured to direct the surveyor general to retain the plats in his hands, which were destined for the land offices, until further orders. Other steps have recently been taken at this office, to put in train a rigorous scrutiny into the legitimacy of the floating pretensions in that State. Letters, and copies of letters, on this subject, Nos.— to — are herewith transmitted. Contrivances have been brought to light in other places, showing where a family occupying the same tenement, where father and son, and mother and son dwelling together, have set up the pretence of separate cultivation and occupancy, to divide a quarter section, and obtain a float for each half.

Claimants of another reprehensible description are they whose pretensions are founded on depositions in general terms, or wearing the appearance of being artfully worded, admitting a subterfuge in the attempt to give a legal coloring to their proceedings, by construing the statute to suit their

purposes. The law, as its title imports, is in favor of *settlers*; but pretensions have been set up by persons dwelling in town with their families, and there following mercantile or other pursuits, while they caused a little show of improvement, that scarce deserved the name, to be made for them by others; no proof being produced of their personal superintendence or direction on the spot. Cultivation by slaves or hirelings in 1833, and one or the other, or a growing crop on the place on the following 19th of June, have been assumed as fulfilling the required conditions.

Among the pretences to cultivation, there have been disclosures as follows, viz: where the cutting and burning a small patch of cane; where an enclosure, not entitled to be called a fence, around a space only large enough for a very small garden, and the planting of a few culinary vegetables: and where scattering an undefined quantity of turnip or grass seeds; and in one case, planting a few turnips or onions, have been claimed as cultivation, to meet this condition. Further remark upon constructive possession may be dispensed with.

The Registers and Receivers are made judges of the credibility and sufficiency of the proof, except in contested cases, which are required to be sent to the Commissioner for decision. My predecessor ordered the evidence in every case to be forwarded; but during near five months of my superintendence, it has been quite impossible to scrutinize the proof in about sixteen hundred of the former class, without neglecting duties that appeared more pressing and imperative. In those examined, contradictions, prevocations, and other circumstances, have occasionally placed parties and witnesses in no favorable point of view. In the contested class, the land officers must be presumed, *prima facie*, to have acted correctly. If honest they would not knowingly pass a fraudulent claim; if conniving, they will hardly be expected to expose themselves voluntarily. The necessary *quantum* of evidence can hardly be prescribed, the same proof being more or less convincing to different persons.

The bill mentioned by Mr. Harrison as having for subject the granting of pre-emptions to actual settlers, and to prevent the future possibility of such frauds as are alleged to have been committed, forms no part of your reference; and it would perhaps be improper to allude to it in this place, if the letter did not seem to indicate an intention on the part of the writer, and of the committee to which he belongs, to extend the grants of pre-emption to others than those who come within the provisions of the act of 1834. Believing such a disposition to be implied, and that a new law to that effect will go far to form the pre-emption policy into a durable system, involving considerations of great importance to the Treasury, and materially affecting the land establishment under my particular charge, I hope it will not be considered officious or impertinent to submit a few remarks, though not expressly called for, upon the hypothesis that such an extension of the pre-emption privilege is contemplated.

The pre-emption laws originated and bestowed rights, but recognised none of the settlers as previously existing. I conceive they have no other rights, in this respect, than what the law confers; and that the pre-emption privilege may be considered little else than a mere benevolence, enabling the adventurer to appropriate to himself the choicest lands, most valuable mill seats, and localities for towns, at a vast cost to the public; or in other words, preventing the receipts of vast sums into the Treasury. It is confidently believed that these privileges, covering at least four millions of acres

ofland, joined with outrageous combinations to intimidate purchasers, and other unjustifiable confederacies, have diminished the receipts for public lands, in the year 1835, full three millions of dollars, at a moderate estimate, below what they would have brought in fair competition. If frauds in pre-emptions were unknown; if no one obtained a pre-emption but upon a faithful compliance with the conditions prescribed; still the selections of the most valuable lands, and most desirable situations, at the minimum price, would produce an effect upon the revenue too considerable to be overlooked by the financier. I should step out of my province, as Commissioner, by arguing officially the questions, whether other considerations of public policy, counterbalance this cost, or whether the settlers have extraordinary merits transcending this calculation, and accordingly abstain from the discussion.

If the propriety were conceded of making the pre-emption policy a part of our land system, there would be still no evident fitness in extending the concession to a full quarter section of land. An allowance of half that quantity of the very best land is surely munificent, and if presumed poverty be one of the considerations for the grant, it may be observed that many a good farm in the west, contains no more than an eighth of a section.

The committee request you, sir, to furnish them with the best plan which occurs to you, of securing the right of pre-emption to actual settlers, and of preventing said frauds, viz: against the United States.

In relation to the first branch of this request, I have to observe that the act of 1834, and the precautions already taken by the Commissioner, with the advice of the Secretary of the Treasury, appear to have provided sufficiently for the fair claimants, under the present law. The resolution is silent respecting the nature and extent of any future grants of this kind that may be contemplated; and the difficulty of devising a plan for their protection under such circumstances must be apparent.

The second part of the request presents a difficulty extraordinary. The temptation to abuse the charity of the Legislature is so radically intermixed and so inextricably interwoven with the operation of the pre-emption laws, that I should despair of laying before you a plan altogether effectual for the prevention of fraud on the part of claimants. It seems to me a hopeless task to project any modification of existing enactments that shall silence perjury, and defeat the devices of sagacious speculators, so long as their ingenuity shall be sharpened and stimulated by the prospect of an immense gain attending their success. The conscientious will resort to no dishonest tricks, but the contagion of speculation is proverbial: and when an expectation may be entertained of obtaining, by indirection, for the lowest price, land worth from five to forty dollars per acre in the market, the inducement to perjury and fraudulent shifts will be too strong to be resisted, by many of weaker morality. A scheme of extreme liberality towards the settlers might diminish the number of fraudulent cases, by partially removing the motive to such practices; but I do not imagine any project to defeat them altogether, so long as there remain legal restrictions upon the invasion of the public property by unlicensed intruders, who, by a statute unrepealed, are considered as trespassers—liable to be prosecuted as such, and to be forcibly removed at the discretion of the President, as has heretofore been done.

It will be seen in the preceding remarks, that protection of the rights bestowed by the pre-emption act of 1834, is considered to be well provided

for by that act, and by the liberal construction it has received in instructions that have emanated under your sanction ; and that similar provisions will suffice for similar cases, in future concessions of the pre-emption privilege.

The practices by which the United States have been most defrauded in claims of this nature, are believed to consist principally of the misstatements or improper coloring of facts, and the evasions and prevarications of parties and witnesses. To obviate such iniquitous proceedings, it will be proper to provide a mode of subjecting the deponents to the test of a rigorous interrogation and cross examination. I ask leave, however, to suggest that the interest of the Treasury seems to demand a guard against force as well as fraud. I allude to that system of terror that threatens the competitor for the purchase of public land with the vengeance of the settler with whose usurpation he may interfere. In some quarters, this state of things is become formidable: probably finding its origin, in a great measure, in the pre-emption laws, whose repeated enactment may have led the settlers to the erroneous persuasion, that they have acquired rights not given by law. Be this as it may, experience has shown, that by mutual support and open menace, they have succeeded in deterring others from bidding against them at the public sales, and it is evident that the prospect for the future is not less threatening. The injurious effect of the continuance of such acts upon the Treasury will be obvious to you.

Respectfully submitted.

ETHAN A. BROWN, *Commissioner.*

HON. LEVI WOODBURY,
Secretary of the Treasury.

TREASURY DEPARTMENT,
February 4, 1836.

SIR: I enclose a letter from the Commissioner of the General Land Office, with certain documents referred to in his letter of the 28th ultimo, in answer to the inquiries made in your letter of the 14th ultimo.

I am, respectfully, sir,

Your obedient servant,

LEVI WOODBURY,

Secretary of the Treasury.

HON. A. G. HARRISON,
*Of the Committee on the Public Lands,
House of Representatives.*

GENERAL LAND OFFICE,
February 3, 1836.

SIR: I have the honor to transmit herewith copies of certain documents, numbered 1 to 13 inclusive, on the subject of frauds and embarrassments consequent on the pre-emption law of the 19th June, 1834, which could not be prepared in time to accompany my report to you of the 28th ultimo, and I request that you will have the goodness to regard as connected with such report, and to dispose of them accordingly.

With great respect, your obedient servant,

ETHAN A. BROWN,

Commissioner.

HON. LEVI WOODBURY,
Secretary of the Treasury.

WASHINGTON CITY, August 25, 1835.

TO ANDREW JACKSON,
President of the United States :

By an act of Congress, dated 29th of May, 1830, giving to actual settlers and occupants on the public domain, the right of pre-emption, according to the requisites stated in said act, and by subsequent acts continuing in force the act of 1830, a new era was introduced on the subject of land claims, to the citizens of Western Louisiana: although the legislation of Congress, on the subject of public lands, is as mild and beneficent as any system on earth, since the Government tolerates in the first instance, a trespass in the citizen, which subsequently perfects a title in himself, yet amidst this mild and merciful legislation, persons are found perverting the designs of these acts, to selfish and corrupt purposes. I will call your attention to a part of these acts in order more fully to understand my subsequent statement. By the act of Congress of 1830, where two persons live on the same quarter section, cultivate and improve it, the Register and Receiver are required, upon due proof exhibited to their satisfaction, to divide the quarter section between the occupants. Independent of this, the law accords to each of them, what is called a pre-emption float of eighty acres each, to be located on any unappropriated lands of the Government. It will be supposed for a moment, that two pre-emption floats are located, as required by law. The rights of the occupants on the first quarter section, according to the construction of the law which prevailed at the land office at Opelousas, Louisiana, have not yet ceased. The moment they make the location of their pre-emption floats, they are entitled to what is called a back concession, which is the same quantity of lands as the pre-emption float itself; these two occupants of a quarter section, have that quarter section divided equally between them; they acquire by the accident of occupancy, a right to 320 acres each; in addition to this view of the question, if men were strictly honest, it would present no avenues for imposition, frauds, or perjuries. I regret to say, because I religiously believe, that the most shameful frauds, impositions, and perjuries, have been practised upon the land office at Opelousas, Louisiana. I make no imputation upon the official conduct of Mr. King, the late register at Opelousas, nor upon the present Receiver. But from my statement it will appear that they must have been most grossly imposed upon, and should have put them more completely upon their guard, so as to have guarded themselves against the wiles of notorious land speculators. I will here mention a construction of the law, which was adopted by the officers at Opelousas, and most of the pre-emption floats have been admitted under that construction. Two persons living on a quarter section, or who pretend that they do, on lands not worth a cent an acre, men who can neither read nor write, men who have never seen a survey made, and know nothing about sections or quarter sections of land, and who, in point of fact, live five, ten, and in many instances twenty miles apart, go before a justice of the peace as ignorant as themselves, and swear to all the facts required by law to make their entry; this too, in a section of country never surveyed by the authority of the Government, nor any competent officer thereof. Would it be believed, that any officer of the Government would admit an entry, under circumstances like these, upon the oaths alone of the parties interested in making them, and upon lands not surveyed, approved and returned by higher authority? Can it be possible that an entry of that kind can either be in conformity with law, justice or right? I

state of my own knowledge, that many of these pre-emption floats are precisely in the situation above detailed. I am authorized to name Col. Robert A Crane, of Louisiana, who states positively he knows many of them to be founded upon the same corrupt perjury; persons swearing that they lived on the same quarter section, when in truth and in fact, they never had lived so near each other as five miles. It is not believed, that there are thirty honest pre-emption floats in the whole western district of Louisiana; and yet since the first of January, 1835, up to the 27th of May, there have passed at the land office at Opelousas, at least 350. And who are the owners of these floats principally? To one and not more than three speculators, since the first of January, of this year, up to the 27th of May, day after day, week after week, I might say months after months, a notorious speculator, and who must have been known as such to the officers of the land office at Opelousas, was seen occupying that office to the almost total exclusion of every body else; no other person appeared to understand how to get pre-emption floats through, and no one did succeed until an event which will be stated below. He could be seen followed to and from the land office by crowds of free negroes, Indians and Spaniards, and the very lowest dregs of society, in the counties of Opelousas and Rapides, with their affidavits already prepared by himself, and sworn to by them before some justice of the peace, in some remote part of the country. These claims, to an immense extent, are presented and allowed; and upon what evidence? Simply upon the evidence of the parties themselves, who desire to make the entry. And would it be believed, that the lands where these quarter sections purported to be located, from the affidavit of the applicants, had never been surveyed by the Government, nor any competent officer thereof, nor approved, nor returned surveyed? I further state that there was not even a private survey made. These facts I know; I have been in the office when the entries were made, and have examined the evidence, which was precisely what I have stated above. This state of things had gone on from the first of January, until about the middle of April or first of May, of the present year, when it was suddenly announced a more rigid rule would thereafter be adopted, which was this; that a sworn deputy surveyor of the United States should in all cases make the survey, in order to ascertain if the parties were on the same quarter section, and to testify before the Register that such was the fact. Besides this, they required the applicants to produce very satisfactory evidence from their neighbors, that they had cultivated and improved as stated in their notice. Pre-emption floats, when tested by this rule, were found to be very few indeed. Governments, like corporations, are considered without souls, and according to the code of some people's morality, should be swindled and cheated on every occasion. Whether such a distinction can be reconciled to either morality or law, one thing is certain, that equal protection and advantages are not afforded to all. I would further suggest to your Excellency to withhold your signature from all patents, when entries have been made and consequent pre-emption floats have resulted, since June 1, 1834, to the first of July, 1835: James Ray, lately appointed register of the land office at Opelousas, Louisiana, and some other competent person, be appointed a board of commissioners to examine all the entries from which pre-emption floats have resulted during the above period. That the said board of commissioners have the power to administer an oath to all persons who may appear before them desiring to make entries of land; that some qualified attorney be appointed to appear before the said com-

missioners to represent the interest of the Government, to put cross interrogations to elicit the facts, whether true or false, in regard to the validity or illegality of said claims; that this said board of commissioners shall, under the supervision of said attorney, take down the evidence in each entry with its consequent pre-emption floats; shall file the same with them; shall give their opinions upon each respectively in writing, with reference to the evidence and law; and shall forward the same to the Commissioner of the General Land Office. That the said board, upon the examination of any pre-emption claims or floats which hitherto have been allowed, are satisfied that they were passed upon the affidavit of the parties alone, without other and corroborating evidence, and if they are further satisfied that the land proposed to be entered, has not been surveyed by a competent officer of the Government, approved, and returned to the land office; they shall unconditionally reject the said claims with their consequent pre-emption floats. These suggestions are made, not with the belief that they may be adopted in the investigation that may be ordered, but simply with a hope that they might afford some aid in laying down the rules of that investigation. It may not prove so extensive a fraud, and show such gross impositions upon the officers of the Government, and such glaring perjury, as did the Arkansas land speculation. Yet the investigation will show enough of each, to entitle this administration to the lasting gratitude and approbation of its friends in Western Louisiana, as well as the majority of its political opponents.

I am with great respect, sir,

Your obedient humble servant,

BENJ. F. LINTON,

Dist. Attorney, Western Dist. of Louisiana.

GENERAL LAND OFFICE, *September 29, 1835.*

SIR: I enclose you a copy of a communication addressed to the President of the United States by B. F. Linton, Esq. upon the subject of the pre-emption claims heretofore awarded at the land office at Opelousas. In consequence of that communication, all patents for pre-emption claims in your district will be suspended until the merits of the claims have been re-examined and fully investigated. This examination will be made in the first instance by yourself, in conjunction with the Receiver; and I have to request that you will immediately upon the receipt of this, give public notice, and proceed anew to the examination of the claimants themselves, and of such witnesses in support of the claims as may present themselves before you for that purpose. Those claims which may be sustained by you will also be re-examined here, and those heretofore admitted which shall not be sustained upon your revision, will be regarded as definitively rejected. I enclose you a form of interrogatories calculated to elicit the truth in relation to the validity of each claim, which you will propound, together with such other questions as may be suggested to you by the peculiar circumstances developed in the examination of each particular case. As soon as the examination shall have been completed, I will thank you to forward a report, together with all the testimony, to this office, and have to request that in the admission of new cases, the utmost caution may be observed, and the instructions with which you have been furnished strictly

adhered to. Whilst upon this subject, I deem it important to call your particular attention to one of the allegations of Mr. Linton, viz: that in addition to the pre-emption granted by the act itself, the claimants have been permitted to enter a back pre-emption equal in quantity to the tract first granted: the act of 19th June, 1834, and that of the 29th May, 1830, which restrict the quantity of land to be acquired under their provisions to 160 acres, would of themselves preclude any such construction, and I am at a loss to conceive how the land officers could so far have misconceived the terms of the act of 15th June, 1832, granting these back pre-emptions, as to have given to that act a prospective effect, when its provisions are specially restricted to those individuals who were then in possession under one of the descriptions of title stipulated by the act itself.

I am, &c.

E. A. BROWN, *Commissioner.*

The REGISTER at Opelousas.

Interrogatories to be propounded to the pre-emption claimants, and, with the necessary modifications, to the witnesses produced by them in support of their claims:

1. What is the description of the tract claimed by you?
2. Did you cultivate the tract described in 1833? if not, state what tract was cultivated by you in that year.
3. State the nature, extent, and manner of such cultivation.
4. Were you in possession of the tract claimed on the 19th June, 1834?
5. Had you a dwelling-house upon the tract claimed, and were you residing therein on the 19th June, 1834? if not, state whether you resided upon public land, and describe the tract upon which you resided.
6. If you were not residing upon the tract claimed, in what did your possession consist?
7. Did any other person cultivate the tract claimed in 1833?
8. Was any other person in possession of the same on the 19th June, 1834?
9. To what extent did he cultivate, and what was the manner of his possession?

Extract of a letter from — Morgan to Henry H. Johnson, Esq. dated 6th October, 1835.

"It is stated, and very generally believed, and the Receiver's books of public lands will show that the fact of the case, if it is one, that spurious claims have covered all the *Atchafalaya rail-road*; all the lands on the Granfete bayou, Marceigin, Fordouche, Achafilia, Latanache bayous, something like 154 miles in front, with one-half mile deep, have been located within ninety days by different companies and different men. It may be that the law warrants such locations. There is many things that make me think there is something wrong. As to improvements, none were ever made. On not over 15, are all the 150 or 60 miles front; and only a few surveyors and bears ever passed over them. If you believe the information worth the attention of the *Patent* or Land Office, you are at liberty to communicate the fact: the books, names, and surveys can easily

be examined. If the companies and individuals are acting correctly, this information can do them no harm; if incorrectly, they ought to be stopped at once. I write you this information, as there are big fish engaged in this traffic, though little ones do the business. How it is done, as yet I have not been able to learn, except by law construing and foul swearing.

"There is yet many small claims been investigated for twenty years, not approved of, and the claimants entitled to them, while a set of speculators are getting titles by proving pre-emptions, by hundreds, where it never was. If this is law, it is an unjust one."

GENERAL LAND OFFICE,
December 17, 1835.

GENTLEMEN: It has been represented to the Department that associations of men are engaged in speculating in the purchase of floating rights, under the late pre-emption law; and by means of facilities afforded by deputy surveyors, acting as agents in their location, much valuable land in Louisiana is thus engrossed; and that these rights are multiplied by the recognition of separate pre-emption rights, in the parents, children, and hired men, of each family, and fictitious persons.

The Secretary of the Treasury has directed that the most prompt and energetic measures be taken to detect and arrest frauds of the character alluded to; and, with this view, I have to require of you to enter into the most rigid scrutiny of all pre-emption claims and floats alleged in your district; and resort to such means and sources of information, within your reach, as will lead to a faithful and satisfactory result in the ascertainment of what ever may be the facts.

Your immediate attention to this important matter, with a view to a report on the subject at the earliest possible date, is strictly required. To guard against imposition, the closest adherence, on your part, is required to the principles of the law, and those laid down in the printed letters of instruction, bearing date the 22d July and 23d October, 1834.

I am, &c.

ETHAN A. BROWN.

P. S. You are required by the Secretary of the Treasury to institute, forthwith, such inquiries as will enable you to report an opinion on the subject of the rumors and representations which have been the occasion of this communication, so as to enable the Department to form something of a definite and adequate idea as to the extent to which the evils exist in the premises.

In case your inquiries should lead you to suspect the existence of frauds, the Secretary requires that, without loss of time in writing for further orders after your report herein to the Department, you will forthwith proceed to take such testimony in support of the facts in the alleged abuses which you shall have ascertained; and should you find yourself at any loss in the progress of the investigation, the Secretary directs that you will promptly call to your aid the advice of the district attorney, whom you are to address on the subject.

I am, &c.

E. A. BROWN.

THE REGISTER AND RECEIVER
at New Orleans, Opelousas, Ouachita, and St. Helena, La.

GENERAL LAND OFFICE,
December 19, 1835.

SIR; I herewith enclose to you a copy of a letter addressed to the Registers and Receivers of the United States, on the subject of fraudulent practices alleged to exist in the proving of pre-emption rights, and obtaining what are called "floats," under the act of 19th June, 1834.

You are hereby directed to furnish to the district land officers no more plats of surveys, until you shall have received further directions. You are requested, however, to transmit the plats to this office as fast as they can be prepared.

I am, &c.

ETHAN A. BROWN,
Commissioner.

H. T. WILLIAMS, Esq.
Surveyor General, Donaldsonville, Louisiana.

GENERAL LAND OFFICE,
December 21, 1835.

GENTLEMEN: In relation to the subject of pre-emption rights, concerning which I addressed you on the 17th instant, you are particularly required to keep in view the following general principles, in fulfilment of the meaning and intent of the act the of 19th of June, 1834, and of the instructions heretofore issued by the Department.

1st. In cases where two or more persons are settled on the same quarter section, the *two first actual settlers*, (and they only) who cultivated in 1833, and had possession on the 19th of June, 1834, are entitled to the right of pre-emption. If an equal division of such quarter, by a north and south, or east and west line, will not secure to each party his improvements, they must become joint purchasers or patentees of the entire quarter section; if otherwise, it will be divided so as to secure to the parties respectively their improvements; in either case the said *two first actual settlers*, who obtain the right of pre-emption to the quarter section, and none others, are entitled each to a pre-emption of eighty acres elsewhere in the same land district, to be located so as not to interfere with other settlers having a right to pre-emption. This right to locate eighty acres elsewhere, usually called a floating right, must be located and determined at the time the quarter section is paid for on which the right accrues.

2d. Only one pre-emption to the maximum quantity of one hundred and sixty acres is allowed to a family when cultivation is in common, or for common benefit, and no floating right is allowable under such circumstances.

3d. No one employed by another as a laborer on his improvements, can be admitted to a pre-emption right.

By a careful attention to the act and the instructions, you will save to yourselves, as well as the Department, much trouble and embarrassment in finally determining rights accruing under the law.

I am, &c.

ETHAN A. BROWN,
Commissioner.

THE REGISTER AND RECEIVER
At New Orleans, Opelousas, Ouachita and St. Helena, Lou'is.

QUINCY, MONROE CO. MISSISSIPPI,

December 28, 1835.

DEAR SIR: I hope you will excuse me for the liberty I have taken, and should not have troubled you with this communication but for an injury done myself, and a fraud practised on the Government, which I hope I have proved to the satisfaction of the Department; I speak with regard to a pre-emption and float that was obtained at the land office, in Columbus, by John and William Purser. I have forwarded an affidavit to Major William Dowsing, register of the land office at Columbus, showing that said Pursers had no shadow of a claim to the land on which they got a pre-emption and float until after the 16th of October, 1834, and also proving that I bought the improvement of John Purser in August, 1835. John Purser was residing on the land since he first purchased the land, but William Purser has never resided on the land, and never had any kind of claim to the same. I have sent the affidavit to Major Dowsing for the purpose of having it sent to the General Land Office. I have got several of neighbours' names to the affidavit, and can give any recommendation in this county; and although I am not personally acquainted with Major Dowsing, I can refer you to him for my character. It is probable that the persons that have bought the floats may try to make some exertions in behalf of the Pursers, but I am certain that they cannot get a witness of respectability to strengthen their claim. I have omitted to give the numbers of the land above, they are as follows: southeast quarter of section nineteen, in township twelve, range sixteen west.

You will have the goodness to inform me if I have taken the proper course to defeat said claimants, and whether or not they can have a pre-emption under the above circumstances.

Very respectfully,

Your obedient servant,

JEREMIAH RIGGINS.

To the HON. E. HAYWARD,
Com'r of the General Land Office.

AUBURN, HINDS CO. MISSISSIPPI,

December 7, 1835.

DEAR SIR: Permit me, as one of your constituents, to call your attention to a case in the General Land Office, in which I am immediately concerned. On the 30th of June last, I purchased at the land office, Mount Salus, (Clinton) in this State, the northeast quarter of section twenty-seven, township four, of range four west, for which I had a receipt in these words, to wit:

"No. 22,184.

RECEIVER'S OFFICE, MOUNT SALUS, MISS.

June 30, 1835.

Received of Reuben Collins, of Hinds county, Mississippi, the sum of one hundred and ninety-nine dollars, fifty-six cents, being in full for the northeast quarter of section twenty-seven, township number four, of range number four west, containing $159\frac{65}{100}$ acres, at the rate of \$1 25 per acre.

\$199 $\frac{56}{100}$.

S. W. DICKSON, Receiver."

I now understand that one Uriah H. McManis, and his brother, Archibald McManis, have set up a claim, and that they having failed to establish any color of claim by a pre-emption in the land office here, they have petitioned the General Land Office, or the department thereof, for said land. Of this I knew nothing until a few days since, and on Saturday last I applied to the land office to know if such were the facts, and was informed by the Register that they had petitioned both for a pre-emption, and that Archibald McManis had sworn that he had paid the money into the land office some two years since for the land which Uriah now wishes to claim by *pre-emption*. Well, sir, if the department of the General Land Office thinks their claim has any color of law or equity, I only ask to be informed of the same, and I fear not the result if I can be allowed to confront them with testimony. The fact is this: U. H. McManis, in the year 1822, bargained with one Cooper for his claim or improvement on the west half of the quarter section above mentioned, and shortly afterwards reported that he had paid for the quarter section. And one William Spinks, a poor but industrious man, with a large family, was improving the east half of the said quarter section; Spinks removed, and McManis rented the land to Cooper, from whom he had purchased the claim, and got rent for it of him (Cooper) in 1833. In 1834, Mark Snow, by his negroes and overseer, one Mathews, cultivated the land, and paid McManis rent; and this year, 1835, Richard J. Malett raised a cotton crop, and has promised rent. In the mean time, Uriah and Archibald McManis were merchandising, one in the town of Raymond, the other in Clinton; neither of them ever occupied the land, and how they can expect to come in under the pre-emption law I know not: and as to having paid for the land long since, is to my mind strange, when they can neither produce a receipt, or make a showing of the records to that effect. In the absence of all this, is it possible that they can have any legal claim? I stand ready to prove the statements which I have made. I can prove, by unimpeachable testimony, that Archibald McManis has said, since I paid for the land, that he applied to pay for the land, and that he was told that there was a pre-emption upon it. How does this look beside his oath that he has actually paid for the land? No sir, he never paid for the land; it is true the map was marked with a pencil mark, with the letter S, the usual mark for sold, and when I paid for some of my land two years ago, it was marked S. Now, the question is, who marked it? Why, I will tell you what I think: it was some one interested, that it should not be known that it was unsold. It is a well known fact, that while Mr. Gwin was register, the map was frequently marked S, and the land still was unsold; and many accused him and his particular friends of corruption and speculation; but I am inclined to the belief that others marked the map by getting permission to examine it whilst the Register was otherwise engaged, and had no idea such was the design of those who practised the fraud.

In conclusion, let me ask you to be so kind as to lay this letter before the Department of the General Land Office, and request for me a hearing, if, as I have before remarked, the case presented shall seem to require it.

I remain, your obedient servant,

REUBEN COLLINS.

Hon. JOHN BLACK.

SURVEYOR GENERAL'S OFFICE,
Donaldsonville, January 9, 1836.

SIR: I have the honor to acknowledge the receipt of your letter of the 19th ultimo, enclosing a copy of one directed to the Register and Receiver of the different land offices in Louisiana.

I assure you it was a great relief to me, as the demand for speedy returns had become almost intolerable; and my aversion to a compliance was produced by the fear that many frauds were practised under the late pre-emption law.

So far as relates to the deputy surveyors, I have uniformly discountenanced any participation in the speculation, and when they have been known to be concerned, I have suspended their functions; but the sacrifice they make is so inconsiderable, that while the temptation exists there seems to be but little prospect or correcting the evil. I am pleased, however, to say that I have not heard of one unlawful claim that has passed through the hands of a deputy, and that, excepting one or two cases of a disposition manifested to locate them, so as to interfere with the rights of other persons. (which has been counteracted) they are free from censure, nor am I in any other respect entitled to the compliment gratuitously conferred on me in some of the newspapers.

I have no doubt but the wealth and influence of this country are embarked in this immense tide of speculation, but I fear that but little can be done to arrest it, unless it should be in the power of Congress to repeal the act of the 14th July, 1832, supplemental to the act granting the right of pre-emption, &c. or to limit the operation of the law, so that the settler would be required to take the vacant land next adjacent to the settlement; beyond this, the only remaining hope is to bring the public land into market as expeditiously as possible.

I am decidedly of opinion that there are not more than three or four private, unlocated claims in the townships included in the list enclosed in my letter of the 6th of November, and the enclosed list may now be added to the number.

I do not think it would be proper to have a sale in this State between the middle of May and the 1st of November, but it is earnestly urged by the inhabitants, and if it could be effected before May, I think it would be advantageous to the Government.

With great respect,

Sir, your obedient servant,

H. T. WILLIAMS,
Surveyor General, Louisiana.

ETHAN A. BROWN, Esq.

Commissioner of the Gen. Land Office.

LAND OFFICE, NEW ORLEANS,
January 9, 1836.

SIR: In reply to your letter of 17th December last, we beg to state, that all applications that have been made to us for entries of lands in this district were accepted by us, after having been found in conformity with law, and your letters of instruction of the 22d July and 23d October, 1834.

But, inasmuch as it could be possible that, among those that have been presented from the different parishes (for the law permits the settlers, who cannot bring forward their witnesses to this office, to make affidavit, supported by the corroborative testimony of two persons, in presence of one of the judges of the parish wherein he resides) there might be some not altogether legal, yet we would observe, that however great the fraud might have been represented to you, we nevertheless think that the mischief is not so great as you seem to suppose.

In order, however, to remedy, as far as in our power lies, the evils which may have crept into the present system, we have deemed it our duty to enter into the following arrangements with the surveyor general, which will have a tendency to lessen frauds, if not to stop them altogether:

That every time an application will appear suspicious to us, a copy of the same shall be sent to him, and he will forthwith send a qualified person on the premises, in order to ascertain the validity of the claim.

We request of you, sir, to bear in mind that we shall do all in our power to deserve a continuance of confidence from the Government; and that if we discover any frauds we shall immediately communicate the same to you, and have the offender prosecuted by the district attorney,

We remain, sir,

Very respectfully,

Your obedient servants,

B. Z. CANONGE, *Register*

MAURICE CANNON, *Receiver*.

ETHAN A. BROWN, Esq.

Com'r of the Gen. Land Office.

LIST OF DOCUMENTS REFERRED TO.

Documents marked A.

Letter from the Register of the Land Office at Chocchuma, to the Commissioner, dated 29th November, 1833.

Letter from the same to the same, dated at Natchez, 27th March, 1834, enclosing a communication of same date from George Dougharty.

Letters from the Register and Receiver at Columbus, to the Commissioner, dated 15th March, and 3d May, 1834, with a communication from R. T. Archer, dated 1st March, 1834.

Documents marked B.

Letter from _____, dated Point Coupee, January 3, 1835.

Extract of a letter from E. B. Williston, to the Secretary of the Treasury, dated 30th November, 1835.

Document marked C.

Letter from John Erwin, dated January 4, 1836, to the Commissioner, with sundry depositions relating to a fraudulent pre-emption claim in Alabama.

Document marked D.

Exhibit of the quantity of land entered under the pre-emption laws in Louisiana.

Documents marked E.

Letters from Gideon Fitz, late register at Mount Salus, to the Commissioner, dated 5th July, 28th November, and 7th December, 1830; 16th January, 20th March, 8th May, and 11th July, 1831.

Letter from Samuel Gwin, former register at same place, to the Commissioner, dated 22d June, 1832.

Letters from the Commissioner to Gideon Fitz, dated 28th July, 1830; 17th (two) February, 6th June, and 3d August, 1831, and 8th August, 1832.

Documents marked F.

Circular letters from the Commissioner to the land officers, dated 10th June and 14th September, 1830; 8th May, and 28th July, 1832; May 17th, 1833; March 1st, 22d July, and 23d October, 1834.

A.

CHOCCHUMA, Nov. 29, 1833.

SIR: I now have a momentary respite to drop you a line on the operations of this office during the last six weeks. From the moment the public sales opened the crowd was immense, up to yesterday. The sales have been immense, falling little short of \$400,000, notwithstanding the greatest juggling and the most formidable combinations that was perhaps ever arrayed at a public sale. A formidable company was formed on the second or third day of the sale, that silenced all opposition, and the lands went off, generally, at Government price. It was so ingeniously arranged that all the settlers were interested in it; of course that stopped opposition. All the persons of capital were in it. Lands were offered, and where there was no opposition, of course were knocked off at Government price, and then a resale took place among the parties concerned, where the lands sold, generally, very high. We had no means in our power to break up this combination unless we suspended the sales, and this was too heavy a responsibility for us to take. I intend to send you the abstract of two days' sale, that you may see the deep schemes by the forfeitures and the prices the lands sold for the next day.

I have no doubt but in the strict interpretation of the law the sales are void, and the individuals interested subject to a public prosecution. It is not very material whether you bribe off opposition, or use physical force. The results are the same to the Government. I shall give you my views more in detail when I have more leisure. I wish the President to be informed of the matter, and whatever steps may be adopted will be for the best. It is the policy of the Government that her lands should go at \$1 25 to those who intend to cultivate them; but the good intention of the Government is defeated by these companies, as they sell the lands for their intrinsic valuation, and persons of limited capital are, by this means, deprived of the bounty of the Government to a great extent. If required, I can furnish the plainest proof on the above matters. It is notorious to the world. I have fretted myself into a fever at these movements, and I shall hold myself prepared to prove this and more too.

Our entries have amounted to upwards of 2,100. I have been compelled to have a clerk to myself during the sales, and I must ask that you allow me one until January, as I do not think I can get every thing up by that time. From the heavy amount of sales I am persuaded you will grant the request, as I shall be compelled to take some exercise in my present situation, with my health not good.

It is very hard to get a person in this new country that can be trusted in an office, and I have been compelled to give the per diem allowance as stated in the instructions, and will have to pay it myself unless granted by the Département. It will be the last of next month before our returns will be finally prepared to be forwarded, but I am making out with all possible speed, the general abstract up to the end of the present month, which I will forward to you in advance of the other accounts, for your information and the information of the President, presuming that it may be wanted for Congressional purposes. I have had to send express to Clinton for blank abstracts, and am now out, or nearly so. I learn from the Receiver that he is short, also, in his abstracts, which will retard our returns until others

can be forwarded from Washington. As yet we have no mails, and our communications have to be sent by hand to the nearest post-office, fifty miles.

I must ask leave of absence for two months, as soon as I can arrange my returns. The death of a brother since I left Clinton, with whom I was concerned in a plantation on the Missouri river, leaves my property there greatly exposed only under the charge of negroes, my cotton, I fear, yet standing in the field. I will arrange every thing here so that my absence will not be felt.

In haste,

Your obedient servant,

SAMUEL GWIN.

ELIJAH HAYWARD, Esq.

Commissioner, &c.

NATCHEZ, March 27, 1834.

SIR: Enclosed you will receive the deposition of Mr. Dougharty, one of the persons who signed the paper complaining of the conduct of the speculators, at the recent public sales. As Mr. Dougharty was one of those that gave rise to the action of the Department on the matter, and at the suggestion of my friends I thought it best that his statement should go on to show that *no allusion whatever* was made to the operations of the Chocchuma land office.

As I perceive by the last papers that our *veracious* Senator, Mr. Poin-dexter, has introduced sundry resolutions in the Senate, founded in part on the recent public sales, and implicating the officers of the Government, I have advised Mr. Robert J. Walker to forward to the Government the *original article of agreement*, signed by the speculators, or a certified copy of it. I have never seen it, but I got Mr. Senator Black to read it, and also the laws of Congress, and if the agreement was contrary to law, to advise me what course I had best take in the matter, or whether I could act at all on the subject. After a careful examination, Mr. B. informed me that there was nothing in it or in the acts of the speculators that was in violation of the law.

I was prepared to adopt any measures to defeat the object of the speculators, had they been violating law. In my letter from Chocchuma, on this subject, I advised you that Mr. Archer had no complaints to make as to the Chocchuma sales, and, with the affidavit enclosed, I hope it will satisfy all concerned that their complaints or insinuations are unfounded. It is true, as I have before advised you, that companies were formed—that some tracts of good land did sell at Government price, that were very valuable, and that I did suppose, until Judge Black informed me to the contrary, that they were contrary to law; yet I am free to say that the formation of these companies has greatly advanced the interests of the Government, by selling a much larger portion of land than otherwise would have been sold; and were the sales annulled, not one-half of the lands sold would now sell. Another advantage in these companies was, *every settler* got his improvement, and a *quarter section* of land around it, at the very *same price* that the speculators had to pay; this accounts for the great number of transfers

nearly all of which were made to the settler. So united were the settlers on this subject, that at the close of the first two weeks' sale, they gave the persons composing these land companies a *public dinner*, at which the Hon. Mr. Plummer, (who was also one of the company,) at the instance of the settlers, returned their cordial thanks to them, and informed them that they had done more for them than all the pre-emption laws that could have been passed by the Government; and to this hour you cannot find an individual in the nation who will not defend the companies.

It is true that I did all in my power to embarrass the company at the time; but it was, as I then supposed, in violation of law; and instead of the officers of the Government being concerned with them, the reverse is known by every man on the ground; and so determined were the members, that where either the Receiver or myself wanted land where there was a settler on it, it was run up to the full value of the land, for the benefit of the settler.

I see it is the intention of the land committee to institute a *secret* inquisitorial examination of the conduct of the officers, without letting them know the nature of the charges against them, or even permitting them to know the witnesses to be used against them, or cross examine them. This is in character with many other acts of this party, but as an officer, or a man, I am prepared for the severest investigation, but would prefer that the accused, accuser, and witnesses might all be ordered on to give evidence.

I shall remain in Clinton for some time yet, closing my business there, and wish any immediate communications to me sent there.

I am, respectfully, your obedient servant,

SAML GWIN, *Register*.

E. HAYWARD, Esq.

NATCHEZ, March 27, 1834.

SIR: In reply to your inquiries relating to the sales of the public lands, and whether a certain communication made by R. T. Archer and myself had any relation to the sales at Chocchuma, I wish it distinctly understood, that no reference or allusion was intended to the sales at Chocchuma, *but to Columbus alone*.

On the contrary, I believed that the sales at Chocchuma were conducted in a manner strictly legal, and much to the advantage of the settlers. I was at that place only a few days, at the commencement of the sales; in that time I did not hear of any attempt made by speculators to prevent the bid of any person, nor any complaint of any settler in that district against any speculator; nor have I heard of any complaint since that time.

I attended the sales at Columbus, to purchase lands for R. J. Walker and Thomas Barnard, of Natchez, and was instructed by them not to bid on any man's improvement, and also that I should not, on any account, join any company at the sales; this was afterwards repeated in a letter from R. J. Walker, Esq. while I was at Columbus. I acted in conformity with their instructions.

The communication from R. T. Archer and myself to the President of the United States contains particulars relative to the land sales at Columbus only; as I have no copy of that communication, reference must be had to the original.

I will add that it was a general complaint among the settlers that the speculators did not act at Columbus as the speculators did at Chocchuma, at which latter place the lands were very generally bid off for the settlers by R. J. Walker, Thomas G. Ellis, and others, and all transferred, at Government cost, without any compensation or reward whatever, as I understood at the time, and now believe. I know that it was insisted on by R. J. Walker, Esq. at Chocchuma, that not one cent, in any form or shape, should be exacted from the settlers for the lands on which they had settled; but that in all cases they should have it at Government cost, (that is, for the same price that it was bid off at,) let that be less or more. This proposition was objected to by speculators from Alabama at first, but was afterwards acceded to.

I am, sir, very respectfully,

GEO. DOUGHARTY.

Col. SAMUEL GWIN

STATE OF MISSISSIPPI, *Adams county:*

Personally appeared before me, the undersigned, justice of the peace in and for the county aforesaid, George Dougharty, who being duly sworn, makes oath that all the matters stated in the above and foregoing letter are true, to the best of his recollection and belief.

GEO. DOUGHARTY.

Sworn to, subscribed, and acknowledged, before me, this 27th day of March, 1834.

WM. B. MELVIN, *J. P.*

N. E. LAND DISTRICT OF MISSISSIPPI,
Columbus, March 15, 1834.

SIR: Your communication of the 13th of December last, with the accompanying copies of letters to which you referred, was received in due time.

In pursuance of your instructions we designated a day (1st Monday inst.) to proceed to the taking of depositions against the speculators, and notified Messrs. Martin, Archer, and Dougharty, of the day and place (Columbus,) requesting them to attend, and bring with them all persons by whom any fact might be elicited to convict the persons implicated; but to our disappointment, not an individual attended on that day or since.

We entertain no doubt of the organization of a speculating company during the sales at this place, by which, we are impressed with the opinion, that the Government has been defrauded, and some individuals have been made to suffer.

So soon as we were impressed with the belief of the existence of such a company, we threatened them with a suspension of the sales; and indeed we should have done so, had we seen any authority in the laws for such a course, but believing that we could not exercise any such discretion without hazarding censure, we declined doing so. Will you be so good as to let us know how we should act in future, in the event of a recurrence of the kind; also, what course we should take (if any) in reference to past occurrences. As before observed, we have no doubt but a company was

organized, and well disciplined, during the last sales; for you will discover by our returns that most of the land sold at the minimum price, a great deal of which was as valuable as any land in the State.

Very respectfully,

Your most obedient servants,
WM. DOWSING, *Register*,
W. P. HARRIS, *Receiver*.

Hon. E. HAYWARD.

N. E. LAND DISTRICT OF MISSISSIPPI,
Columbus, May 3, 1834.

SIR: We herewith enclose you a communication and deposition forwarded to us, some time since, by Richard T. Archer, Esq. at the reception of which, we had received no answer from either of the other gentlemen to whom we had written, in reference to the same subject, and concluded we would wait on them awhile, and we are sorry to say, that we have not heard a word from any person, other than the one alluded to above, and we are under the impression, from what we have heard, that no person will appear to implicate the speculators unless he be *compelled*. We have very little doubt, but that facts might be elicited from several persons to commit the speculators of a violation of the law, were it in our power to *coerce* the attendance of witnesses. Our impressions, however, are founded on rumor principally.

Very respectfully,

Your obedient servants,
WM. DOWSING, *Register*,
W. P. HARRIS, *Receiver*.

Hon. E. HAYWARD, &c.

HONEY ISLAND, *March 1, 1834.*

GENTLEMEN: Your favor of the 10th ult. is before me. I was aware of the propriety of giving my testimony in relation to the matter on which you solicit my presence. I therefore have carefully noted down such evidence as I can testify to, in form of a deposition, which I should have sent you before this, but that I have been disappointed in meeting with a justice of the peace or magistrate, before whom to qualify to it. I consulted the United States attorney, for the Mississippi district, to know if this would be sufficient, and am advised by him that as the investigation is *ex parte*, and designed as an inquiry into facts, for the purpose of instituting suits or indictments, if the facts disclosed will authorize, he thinks it will be all sufficient, and that my presence may be dispensed with by sending the deposition. I could not, without extreme inconvenience, leave home at this time. I am truly desirous of affording all aid in my power. I have already notified you of such persons as I believed to be able to testify on the subject. I have recommended to some to give their testimony, but believe they are unwilling to do so until required. I am unable to induce any to go to Columbus on this business. I am so remote from

Colonel Martin, that I suppose he has as good, or better opportunity of receiving a communication from your quarter than this. We were all requested to attend at Chocchuma on the same business, on the first Monday in March, and think he will be in attendance there. I shall go to Lexington (the seat of justice of Holmes) on Monday, to qualify to the deposition which I shall enclose in this letter, which I detain for that purpose. This is Saturday, and I received your second communication about one hour since.

Very respectfully, yours, &c,

RICHARD T. ARCHER.

P. S.—Not being able to see a magistrate in my county with convenience, I have qualified to the enclosed deposition at Manchester. I have sent Colonel Martin a message that will supersede the necessity of writing.

Yours, &c.

R. T. A.

MESSRS. WM. DOWSING, and W. P. HARRIS.

Richard T. Archer being solicited by Messrs. Wm. Dowsing and Willy P. Harris, of the United States land office at Columbus, in Mississippi, to give such information as comes within his knowledge of fraudulent and illegal practices, alleged to have been perpetrated at the land sales at Columbus, in November last, by certain speculators, of whom Isaac Lane, Daniel Green, and John C. Whitsett, of Alabama, and Dr. John H. Hand, and W. W. Cherry, of Mississippi, and others, are believed to have been the principal actors and authorized agents; being duly sworn, depose: that said speculators, by their agents, Isaac Lane and others, did demand of him pay for transferring to him certain lands which had been stricken off in the name of Isaac Lane, but which said Archer did believe that he was bidding for for him; that on his refusal to pay a cent it was objected, that the *company* would be dissatisfied, and alleged that others paid them; also, that he, the said Archer, heard Allen Sharkey say, that he paid the speculators \$500 not to bid against him; that he had contracted to pay \$1,000, but paid only \$500; also, that he heard Jerry Robertson say, that he paid them for the like purpose; that he contracted to pay \$400, but paid something less; also, that he heard Dr. Fisher say, that he paid them \$800; that it was arranged between them that one-eighth of a section of the land which he wanted was to be stricken off to the speculators, and after to be purchased by him, and that it was so purchased at \$800; also, that he heard Dr. Garret Keern say, that finding that others paid them, that although he had made no agreement with them, that he paid them \$200; also, that he heard Mr. Gallespie say, that he paid them, and that the matter was arranged with them by Allen Sharkey for him; also, he heard Mr. Garey say, that he had to buy one-eighth of a section from them, that they would not agree to take money from him, but that they should buy one-eighth of a section of the land, and sell to him, and in this way (I think) he said he paid them \$200; also, that he heard Isaac Lane say, publicly, while the bidding for the public lands was actually going on, in a loud voice, that if the settlers would put themselves under the protection of the company, that the company would protect them; also, that Mr. McLemore came to him and stated, that he had a communication from the company to make; that the company were aware that he (R. T. Archer,) could do them great injury; that they had no hostile feelings to him, and as

evidence of it showed a list of prices they had put on lands already purchased by him (R. T. A.) at lower rates ; that he returned for answer, by Mr. McLemore, that he was actuated by feelings of hostility to no one ; that for himself he asked nothing of them, but if they would desist from the practices which he reprobated, and let the settlers buy their lands without extorting sums from them, that he would take no notice of the past, but if they did continue those practices he would certainly report them ; he afterwards saw McLemore take J. Lane out, and they had a conference for a considerable time. And further this deponent sayeth not.

RICHARD T. ARCHER.

Sworn to and subscribed before me this 3d day of February, A. D. 1834.

F. W. QUACKENBOAS, J. P.

B.

POINT COUPEE, LA. *January 3, 1835.*

MY DEAR SIR: I avail myself of this early moment to give you my views of the unprecedented and palpable frauds practised in the land offices in this State, under the provisions (as a cloak) of the act of Congress, approved 19th June, 1834, reviving the act of 29th May, 1830, granting pre-emption rights to settlers on the public lands.

Enclosed is a sample for the eye of yourself and Judge Porter, to form your opinions of the loose manner in which honest citizens are deprived of the advantages so kindly held out to them who settled in good faith, and the Government swindled out of two-thirds, at least, of the best public lands in the State of Louisiana. I was in the land office in New Orleans a short time past, when the enclosed application was made, by handing the paper to the clerk of the Register, (the Register, as usual, absent,) by Mary Sturgen ; and, on his examining his plat for the sections, township, and range, he said the sections were taken by William Bryan and Sarah Bryan, who proved their occupation and cultivation by William Summers, Hally B. Roundtree, and Samuel Westaker: upon which she replied, that they had all sworn to falsehoods, as she would prove by all her neighbors, that she settled on the land in 1830, and had continued to reside on and cultivate the same until this time, and that no other person had occupied or cultivated this land but herself, and those who worked for her.

I then told this woman to take home her application and testimony, and told the clerk to give her the names of the applicants, witnesses, and justice, who had thus taken her land, and charged her to bring all to me as soon as she learned I had returned home, and I would have the persons apprehended and committed, to answer to an indictment for perjury.

A few days past, she came to my house with her son Robert, who appears as an applicant with her, and the sample sheet enclosed, with a list of those named from the clerk of the Register. She told me the applicants were gone ; I suppose to the usual retreat—Texas. I then told her to go back, remain on her land, and if any person attempted to take it from her, let me know, and I would protect her, and as soon as the Government filled the land offices with efficient officers, I would have her testimony taken properly, entitling her to the right to purchase ; and if she hears of the perjurers returning, she is to bring witnesses to enable me to have them arrested.

It has been intimated to me by many, and I fear with too much ground of cause, that not only many concerned in the land department, but others high in office and confidence in the State, are deeply interested in this swindling business of land-floating.

When floating assumed a daring stride, and even men barred by the oaths of office began to speak without restraint, I made some inquiries for the fountain head of the floating current, as if wishing to purchase, and was uniformly answered, go to Meloden, in New Orleans, and you can get whatever number you wish. Afterwards, when in the Register's office, filing a claim and testimony for a confirmation of a Spanish title to the land I live on, I saw a man come in and return one of these blank floats and transfers, filled up, as you see the enclosed, with the names of the applicant, witnesses, and justice, but the clerk filled the blanks for section, township, and range, in the float, on this man pointing his finger to the numbers in the plat: he told the clerk he could fill those blanks in the transfer at another time; the clerk answered yes, and lodged them both in his desk.

This man, (who called himself Christie) it was said, was a deputy surveyor, or had been; that he sold some floats to Meloden for one hundred dollars each, which was too cheap, but that he had done it to get a start to procure more, and for which Meloden should pay higher prices. He introduced himself to me, and proposed furnishing any number, if I would furnish the funds, as he knew all the best lands in the State to lay the floats on. I answered him, that he had better examine well the ground he was passing, and that for myself I did not like to dabble in dirty water. I then left him and the clerk in the office. After I returned home, I learned that many floats had floated into Point Coupee for sale; I inquired for some; one or two were soon handed to me—the applicant's name, witness's name, and justice's name, all filled out, and signed and certified; but the blanks of the sections, townships, and ranges yet remaining to be filled. I observed that such swearing to blanks was surely a short cut to floats, and asked the reason why those blanks were still open, being sworn to. The answer was, he did not know where to lay them on good land, as so many had gone before him. I advised the holder to return them, as he might see, as well as myself, that they were obtained by forgery or perjury, as all the writing on the face of the paper was in the same handwriting; and to have nothing to do with this floating business. He has told me since that he has returned them.

Again: a man by the name of Bishop, who said he was of New York, called on me, professing a wish to buy my land, and to know if I and my neighbors intended to save our back concessions. Supposing him a tool or understrapper of the banditti, I asked him if he was attached to the company to which Robert J. Walker (of notoriety in the land jobbing Green school) belonged. He said Mr. Walker was of the company; that he had saved fifty or sixty thousand acres in Arkansas since the passage of the present pre-emption law. I asked him where Walker got the money to pay for such a quantity of land. He answered, he had paid for all he had bought, and could command money to pay for all he wished to buy; and that he (Bishop) could draw on New York for five hundred thousand dollars, if the quantity of land to be had required it.

This man, Bishop, has been (as I am informed and believe) through all the valuable public land in the State, with hiring surveyors, whether deputies under the surveyor general, as many allege, I cannot say; but I

do say, that I cannot get any deputy, and I have heard other citizens say that they could not get a deputy, to run out old lines or locate back concessions, without paying three prices, until this banditti of floating speculators are served: and I believe that not more than from fifty to one hundred honest settlers, in good faith, were entitled to a preference for a quarter section in the parish of Point Coupee. I think that more than five times that number of sections have been covered by floats; and I do believe that this banditti and many of the villains of Vicksburg notoriety, have combined and confederated together to take the whole of the most valuable lands in the State as well as elsewhere; the small fry and understrappers to apply for and prove up; then sell to the floating company, and slip off to Texas, leaving this banditti to hold the swindled prize, under that well intended principle of law, that third innocent purchasers cannot be deprived of their lands, not recollecting that equally wise rule, that titles obtained through fraud are void, and no subsequent act of parties can make the same valid.

Again: the practice of obtaining many floats has been for the father and sons or daughters, perhaps down to the cradle, to claim to have lived together and cultivated on various sections; thus taking to the father and first son one quarter jointly, and each a float for eighty acres, and the balance of the family to take floats for the other tracts purporting to have been cultivated, when not a stick has been cut on the land; and, where there were no sons or daughters, the banditti furnish applicants and witnesses to prove for each other that all lived together, or by twos, on the quarters to be taken jointly, and the others take the floats, when, in numbers of instances, the land has never been seen by any of the parties, except, perhaps, the examining agent, as Bishop, to see if the land is good, or was pointed out by the hired surveyor. As a proof of this kind of family arrangement, Mary Sturgen, applicant in the enclosed sheet, admitted to me that her son Robert, signed as an applicant, was but twelve years old; and from his appearance, he cannot be more. When I told her that the law allowed no such tricks, she said she was advised that by using his name she could get two quarters, and, of course, double the sum she had agreed to sell the one quarter for. She said that Justice Dawson knew the age of her son; and that when he took the affidavit and testimony for Bryan and his daughter, he knew the girl was under age, and that all the parties were swearing falsely, as he well knew when she settled on the land, and that no other persons occupied or cultivated it, but her or those who worked for her. I will here remark, that when I detected fraud in the Register's office, and told Mary Sturgen to go home and remain on her land, that she could not be deprived of her right, unless she sold it for a trifle to speculators, as many of the ignorant settlers had done, her speculating purchaser, by the name of Lewis, then at her elbow, told her that she was at liberty to drop the sale to him; on which she said she would do so.

I do think that the true interest of the Government requires speedy action in this behalf; that the present inefficient officers either be superseded, or more competent persons, as supervisors, sent to their aid, to overhaul every entry made in the offices under the provisions of the present law, and the testimony re-examined or expunged (as in many cases must be done) and new testimony taken; and that all further proceedings in the Register's and surveyor's offices, touching locations or entries of pre-emptions or floats, be enjoined or suspended, until a full, legal, and honest investigation be had on claims made, and to be made, under the provisions of the present law;

otherwise, two-thirds, at least, of the best land in the State will be lost to honest citizens or to the Government, and be monopolized by a base set of swindling and suborning knavish villains.

I am far from charging public officers with turpitude of intentions, but I feel clear in noticing their negligence and errors which they could have avoided. Mr. Canonge and Mr. Cannon, the register and receiver at New Orleans, were absent at the north nearly all the summer and fall, when many of these abuses of their offices were committed; leaving their offices under the sole control of their clerks, who I have ever considered only recorders of such acts and writings as were proper to be recorded in their offices; and as the Register and Receiver, in certain cases, sitting as a board, were sole judges of the rights of applicants, on the testimony adduced, could not delegate their judicial power to their clerks, therefore the adjudications by the clerks must be void, and at least great inconvenience would result. Then the neglect of their offices, and erroneously suffering their clerks to fill their places, and sign their names officially, is, I conceive, highly reprehensible.

I must say, that although neither are competent to the discharge of all the duties of their offices, yet the Receiver, when at home, is prompt to attend when called on, but the Register can never be found at his office, when he can locate himself elsewhere.

These offices should be filled with profound legalists, and good judges of the human character, as well as men of strict attention and integrity to their responsibilities.

The law requires, as well as the written instructions of the Commissioner of the General Land Office, the testimony be taken before the Register and Receiver, sitting as a board, unless inconvenient to have the witnesses at the office, when it is to be taken elsewhere, before some justice, I should suppose, or commissioners from a court. These modes have not been pursued by the board at New Orleans, nor has a proper certificate of character been required of applicants or witnesses; the whole has been under the control of the clerk of the Register, and he has received them uniformly, in the form you see in the enclosed blanks, made out some where, and filled up some how, by honest or dishonest means, we know not which, perhaps both, but under no known sanction of law.

I am, with true esteem,

Most obediently, your humble servant,

Application to the Register and Receiver of the Land Office, for the south eastern district of Louisiana, at New Orleans.

GENTLEMEN: In virtue of an act of Congress approved on the 19th June, 1834, entitled "An act to revive the act entitled 'an act to grant pre-emption rights to settlers on the public lands,' approved on the 29th May 1830," we apply to become the purchaser of a certain tract of land situated and lying in township No. 2, of range No. 9 east, designated as and being section No. 14, containing — acres, agreeably to the township plat on file in the Register's office. We cultivated the said tract of land (designated as above) in the year 1833, by raising corn, &c. thereon, and continuing on the same, was in actual possession and peaceable occupancy

thereof at the date of the passage of the above mentioned act. We, therefore, pray that we may be permitted to enter the said tract according to law.

MARY STURGEN,
ROBERT STURGEN.

Affidavit of applicant.

Personally appeared before me, Thomas Dawson, a justice of the peace, Mary Sturgen and Robert Sturgen, who, being duly sworn, depose and say that the facts contained and set forth in their foregoing application are true, and that every matter and thing therein stated is strictly correct, so help them God.

MARY STURGEN,
ROBERT STURGEN.

Sworn to and subscribed, at the town of Bayou Tunica, in West Feliciana, this 12th day of December, 1835, before me,

THOMAS DAWSON,

A justice of the peace, in and for the parish of West Feliciana, and State of Louisiana.

Corroborative testimony.

Also, personally appeared Jesse L. Sanders and William P. Mulder, of said parish of West Feliciana, who being duly sworn, declared (in answer to interrogatories to them propounded by me) that they are well acquainted with the said Mary Sturgen and Robert Sturgen, of the parish of Point Coupee; that their within application has been fully read and explained to these deponents, and that all the facts therein contained, in relation to the cultivation and possession, by the said Mary Sturgen and Robert Sturgen, of the land described in the said application, are, to these deponents' knowledge, true.

And these deponents further declare, that they are in no manner interested or concerned with the said applicants in the said tract of land.

JESSE L. SANDERS,
W. P. MULDER.

Sworn to and subscribed, this 12th day of December, 1835, before me,

THOMAS DAWSON,

Justice of the Peace.

Agreeably to the provisions of the 9th section of the act of Congress, approved on the 19th of June, 1834, Mary Sturgen and Robert Sturgen were permitted to take lands elsewhere, in order to make up the quantity the law allowed each; they, in consequence, entered section No. 13, township No. 2, of range No. 9 east; said entry not interfering with other settlers having a right of preference, as it has been satisfactorily proved to the Register and Receiver, by the following testimony, viz:

Personally appeared before me, Thomas Dawson, one of the justices of the peace in and for the parish of West Feliciana, Jesse L. Sanders and William P. Mulder, who being duly sworn, declare that it is to their knowledge that the above described section is (*is*) not cultivated or inhabited by any person who is or was entitled to a right of preference.

W. P. MULDER,
JESSE L. SANDERS.

Sworn to and subscribed before me, at Bayou Tunica, in the parish of West Feliciana, this 13th day of December, 1835,

THOMAS DAWSON,

Justice of the Peace in and for the parish of West Feliciana.

I hereby certify that the facts contained on this sheet are, to my knowledge, true, and that all the witnesses are gentlemen and ladies of truth and veracity.

THOMAS DAWSON,

Justice of the Peace.

December 12, 1835.

Further corroborative testimony.

STATE OF LOUISIANA:

Personally appeared before me, the undersigned justice of the peace, Jesse L. Sanders, William P. Mulder, Mary Sanders, Ann Mulder, William Kean, who, being duly sworn, declare that Mary Sturgen and Robert Sturgen were the first settlers of both the aforesaid described sections, their house being near the line that divides said sections; and that said applicants settled there about 1830 or 1831, and have kept said sections in cultivation ever since, each having labored on said sections, and are now in possession; and that no other person or persons are better or as well entitled to said described land as they are; and that none of these deponents are in any manner interested in said described land.

WILLIAM KEAN,
JESSE L. SANDERS,
MARY A. SANDERS,
FRANCIS FISH,
MARY ANN FISH,
W. P. MULDER,
C. A. MULDER.

Sworn to and subscribed before me, this 12th day of December, 1835.

THOMAS DAWSON,

Justice of the Peace.

Extract of a letter from E. B. Williston, to the Secretary of the Treasury, dated

DONALDSONVILLE, La. Nov. 30, 1835.

"I also take the liberty to inform you, that it is a matter of general notoriety here, that gross abuses are practised under the late pre-emption law. Great numbers of floating pre-emption claims have been unjustly got up with all the necessary legal formalities, and have been located on highly valuable lands, to the great detriment of the interests of the Government.

"The fraud consists in persons falsely pretending to have been settlers on the public lands at the time of the passage of the act.

"I have no doubt if the Department were to direct an examination of all the tracts of land which have been represented to the Registers as having been settled upon at the time of the passage of the law, great numbers of

them would be found, *even at this time*, destitute of the least improvement. There is an immense system of fraud, I fully believe, and nothing but the interference of the Department, or the immediate sale of the public lands can put a stop to it."

C.

WASHINGTON CITY, *January 4, 1836.*

SIR: I present, herewith, a number of affidavits in relation to pre-emptions obtained by Gabriel H. Tutt to the southeast quarter, Richard Tutt to the east half of the northeast quarter, and Benjamin Tutt to the west half of the northeast quarter, of section number three west, in the land district of Demopolis, in the State of Alabama. These affidavits have been taken by some of the most respectable men in the State of Alabama, and have been sent on to me for the purpose of procuring the grant of the above pre-emptions to be set aside, on the ground that they were obtained by fraud and imposition; and that this is the fact, I entertain no doubt whatever. Shortly before I left Alabama I was in the immediate vicinity of the above lands, and heard a number of persons speaking of the manner in which they had been paid out; and the opinion was general, without exception, that a most shameful and scandalous imposition had been practised upon the Government. There is no doubt that all the lands mentioned were paid out at the instance, and for the benefit, of James B. Tutt; a man, *to my knowledge*, of notoriously bad character. Gabriel H. Tutt, as the affidavit shows, is a citizen of Greene county, (the county in which I reside myself, and I know him well) and that he never did reside on the quarter section paid out in his name, or near it, his residence in Greene county being at least fifteen or twenty miles from the land paid out in his name. Richard Tutt and Benjamin Tutt are, I believe, both *public paupers*, and have been so for years; *I am confident* as to one, and am satisfied in my own mind as to the other. I have known them for several years; they have lived in Greene county, and have been supported at the charge and expense of the county. Neither of them, as the affidavits show, have resided on the lands since they were paid out, and Richard Tutt was not on the land paid out in his name, until January, 1834, and had no improvements whatever in 1833.

I know several of the persons by whom the accompanying affidavits were made, and know them to be men of honesty and integrity. Among the affidavits there is one, made by R. Eskridge, in relation to the time at which a man named Brown came to the State of Alabama, and went to live with James B. Tutt. If I mistake not, Brown's affidavit was procured and relied on in paying out these lands, and the object of Eskridge's affidavit, if I understand it, is to show that Brown swore to what he could have known nothing about. It will be observed that Mr. Eskridge, in his affidavit, does not mention the year particularly, but only the month. It is obvious, however, that he meant the year 1834, as that was the year the affidavit was taken. I have written to Alabama to have this affidavit taken over, so as to ascertain the time of Brown's coming to Alabama explicitly.

If, after examining the accompanying affidavits, a *doubt* should remain

as to the fraudulent and improper nature of the transactions they are intended to expose and have set aside, I feel authorized to say, from the high character of the persons who have undertaken the task of having the matter investigated, that, upon that doubt being made known by the Department, ample additional evidence will be produced to remove it. I feel bound to state, in justice to the gentlemen who have interested themselves in the matter, that they do not pretend to set up any claim whatever to the land, and I am not aware that they have the slightest pecuniary interest in the matter; a shameful fraud, as they honestly believe, has been committed in their immediate neighborhood, and they have come forward to expose and defeat it.

If reckless and unprincipled men can succeed in cheating and defrauding Government, by appropriating and securing to their own use, public land at the minimum price, under acts of bounty and benevolence, passed for the benefit of honest, enterprising, and industrious settlers, corruption and venality must and will become the order of the day, wherever there is a quarter section of public land left worth contending for; and it is greatly to be feared that this has become too much the case already. May I ask to be informed of any steps taken by the Department in this matter, as early as convenient.

I have the honor to be,

Your obedient servant,

JOHN RWIN.

Hon. E. A. BROWN,

Commissioner, &c.

STATE OF ALABAMA, *Sumter county* :

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, Jacob Danner, of said county, who, being sworn, deposes and says, that he lived on section three, township nineteen, range three west, in 1833, and is well acquainted with said section of land; and that one James B. Tutt cultivated and claimed the northeast and southeast quarters of said section of land in 1833, and that no other person except the said James B. Tutt, cultivated on said quarter section of land during the year 1833; that one Richard Tutt moved on the northwest quarter of said section about the last days of January, 1834, and that one Austin Prestwood now lives on the southwest quarter of said section, the same this deponent resided on in 1833, and that they, the said Prestwood and Richard Tutt, are the only persons who now reside on said section, and that the said Richard Tutt neither had any improvement or cultivation on said section of land in 1833, either by himself or agent; and he further saith, that the said James B. Tutt and the said Richard Tutt are the only persons of that name who reside on or cultivate said section of land.

JACOB DANNER.

Sworn to and subscribed before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter county* :

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was

at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK.

THE STATE OF ALABAMA, *Sumter county*:

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, Marshall Hitt, of said county, who, being duly sworn, deposes and says, that he is acquainted with section three, township nineteen, range three west; that James B. Tutt has a cultivation on the northeast and southeast quarters of said section of land, and that Austin Prestwood lives on the southwest quarter of said section, and has ever since the fall of 1833; that one Richard Tutt settled on the northwest quarter of said section about the last days of January, 1834, and had no cultivation thereon, or improvement, in 1833; and that the said Richard Tutt is the only person of that name who resides on said section, or ever has resided on said section.

MARSHALL HITT.

Sworn and subscribed to before me, this 10th day of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter county*:

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK, *Clerk.*

THE STATE OF ALABAMA, *Sumter county*:

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, John Hall, of said county, who, being duly sworn, deposes and says, that he is acquainted with the number of section three, township nineteen, range three west, and that one James B. Tutt cultivates on the northeast and southeast quarters of said section, but resides on section two of same township and range; that Austin Prestwood resides on the southwest quarter of said section three, and that one Richard Tutt settled on the northwest quarter of said section three, he believes, about the last days of January, 1834; and that he, the said Richard Tutt, had no improvement or cultivation thereon in 1833; and that the said Prestwood and Richard Tutt are the only persons who reside on said section or have resided thereon for the present year.

JOHN HALL.

Sworn to and subscribed before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter County*:

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, P. S. Glover, whose name appears to the foregoing certifi-

cate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office at Livingston, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK, *Clerk.*

STATE OF ALABAMA, *Sumter county :*

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, William Hall, of said county, who being duly sworn, deposes and says, that he knows section three, township nineteen, range three west ; and that one James B. Tutt cultivated on said section, but does not live on the same, and cultivated the same in 1833 ; and that one Richard Tutt settled on the same section since the first day of January, 1834, he believes about the last day of January last ; and that he, the said Richard Tutt, is the only person of the name who resided on the said section ; and that there is a house on said section, said to be Gabriel Tutt's ; that no person named Gabriel Tutt has ever resided on the same, but that he, the said Gabriel Tutt, resides in Greene county, and never has cultivated on said section to the knowledge of this deponent.

WILLIAM HALL.

Sworn to and subscribed before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter County :*

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK, *Clerk.*

STATE OF ALABAMA, *Sumter County :*

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, Wade R. Thomas, who being duly sworn, deposeseth and saith, that he is acquainted with section three, township nineteen, range three west ; and that James B. Tutt cultivated on the northeast and southeast quarters of said section in 1833 ; and that he, the said James B. Tutt, was the only person named Tutt, who claimed and cultivated on said section in 1833, subsequent to the middle of May : that one Richard Tutt settled on the northwest quarter of said section, between the first of January and the first of March, 1834 ; and that he, the said Richard Tutt, is the only person named Tutt that now resides on the said section of land.

W. R. THOMAS.

Sworn to and subscribed before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter County* :

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. S.]

DANIEL WOMACK, *Clerk*.

STATE OF ALABAMA, *Sumter County* :

Personally came before me, Philip S. Glover, an acting justice of the peace of said county, Richard Eskridge, of said county, who being duly sworn, deposes and says, that he is acquainted with one Jubia Brown, who now resides with James B. Tutt, of the aforesaid county; and that he was formerly a resident of the State of Kentucky; and that he never moved to the county of Sumter till about the first day of April; and that about the 20th of April, he, the said Brown, commenced living with the said James B. Tutt, in the aforesaid county.

R. ESKRIDGE.

Sworn and subscribed to before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter County* :

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. S.]

DANIEL WOMACK, *Clerk*.

STATE OF ALABAMA, *Sumter County* :

Personally appeared before me, Philip S. Glover, an acting justice of the peace for said county, Jacob Simms, of said county, who being duly sworn, deposes and says, that he lives on the adjoining section to section three, township nineteen, range three west, and he is somewhat acquainted with said section three, &c.; that James B. Tutt claimed the southeast quarter of said section, and that Richard Tutt resides on the northwest quarter; that he, the said Richard Tutt, settled on the same about the last days of January, 1834, and had no improvement or cultivation in 1833, either by himself or agent; and that no other person named Tutt, ever has lived or cultivated on said section of land.

JACOB SIMMS.

Sworn to and subscribed before me, this 10th day of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter County* :

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing cer-

tificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Livingston, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK, *Clerk.*

STATE OF ALABAMA, *Sumter County* :

Personally came before me, Philip S. Glover, an acting justice of the peace for said county, Austin Prestwood, of said county, who being duly sworn, deposes and says, that he lives on the southwest quarter of section three, township nineteen, range three west, and is well acquainted with said section of land ; and that one James B. Tutt, of the same county, cultivated in the year 1833, on the southeast and northeast quarters of said section of land ; and that no other person, except the said James B. Tutt cultivated the said quarter sections of land ; and he further deposes and says, that there is a house on the southeast quarter of said section, claimed, as he is informed, by one Gabriel Tutt ; and that there is no further improvement ; and that the said Gabriel Tutt resides in Greene county, as he is informed ; that he, the said Gabriel Tutt, does not reside on said section of land ; and that he, the said Gabriel Tutt, has never cultivated said land ; either by himself or his agent ; and this deponent further saith, that one Richard Tutt resides on the northwest quarter of said section of land ; and that he, the said Richard Tutt, settled on the same about the last days of January, 1834 ; and that the said Richard Tutt had no improvements on said section of land in 1833, either by himself or his agent.

AUSTIN PRESTWOOD.

Sworn to and subscribed before me, this 10th of October, 1834.

P. S. GLOVER, *J. P.*

STATE OF ALABAMA, *Sumter county* :

I, Daniel Womack, clerk of the county court of the county aforesaid, do hereby certify, that P. S. Glover, whose name appears to the foregoing certificate, is an acting justice of the peace in and for said county, and was at the signing of the same, and that due faith and credit may be given to his official acts as such.

Given under my hand and seal of office, at Lexington, Alabama, this 10th day of October, 1834.

[L. s.]

DANIEL WOMACK, *Clerk.*

I do hereby certify, that I am personally acquainted with the men that have signed the nine attached certificates, and that they are all men of good standing in their settlements.

[L. s.]

DANIEL WOMACK.

D.

EXHIBIT of the quantity of land entered or purchased under the pre-emption laws of the 29th May, 1830, (revived by the act of 19th June, 1834,) and of the 19th June, 1834, designating the quantity entered under each act, with the quantity entered "as floats," in each of the land districts of the State of Louisiana, from the date of the passage of the last mentioned act to the 31st of January, 1836.

Land districts.	Act of 29th May, 1830.		Act of 19th June, 1834.		Entered "as floats."	
	Acres.	100ths	Acres.	100ths	Acres.	100ths
Ouachita - - -	2,069	12	34,046	48	12,922	13
Opelousas - - -	-	-	18,570	63	6,942	26
New Orleans - - -	1,107	70	110,227	95		
St. Helena.						
	3,176	82	162,845	06	19,864	39

E.

LAND OFFICE, MOUNT SALUS,
July, 5, 1830.

SIR: Your letter of the 10th ult. accompanying the pre-emption law of the 29th May last, has just come to hand: I beg leave to ask your opinion on some points which will arise under the law. The quantity of land allowed to each settler, is "not more than one hundred and sixty acres, or a quarter section." It will often happen that a quarter section, or two eighths of different sections or quarters, will contain more or less than one hundred and sixty acres, and as the law contemplates "legal subdivisions," it would be best to be governed by them, rather than exact quantity. In fractional sections it may sometimes be necessary to cut off part of the fraction, but it would be extremely troublesome to cut off, or add on, parts of eighths or quarters, either in the square sections, or those of two acres front, and forty deep, on water courses. The lands of this district not yet offered for sale, lie along the Mississippi river, and between that and Yazoo river, where, I presume, the tracts of much value will be laid off two acres front and forty deep. Those lots rarely contain the exact quantity of eighty acres, and should they be lessened, the purchaser will require it to be cut off on the back part, but if enlarged, he will require it on the front part, and therefore, I presume, it would be best, in all cases, to be governed by the legal subdivisions, rather than quantity, as the average quantity will be about one hundred and sixty acres to each settler, though some will have a few acres more, and others less.

It is much to be regretted that the surveys are not made and the lands offered for sale before the country is settled. Pre-emptions in parts of the country where there are no private claims to adjust, seem to hold out

rewards to those who, in the first instance, violate the laws with a view of greatly benefitting themselves, by securing the choice parts at the lowest price, while others, more conscientious, wait for the public sales. It has a very demoralizing effect: the temptation is so great to get land worth five to ten dollars an acre, in many instances, at the Government price for the poorest land, that witnesses will be found to prove up the occupancy of the land. It occasions severe disputes between the settlers, and much troublesome unthankful service for the officers, all of which would be avoided by hastening the surveys, and immediately offering the lands for sale. The witnesses are sometimes probably deceived by not knowing where the subdivisional lines would run if extended through the tracts.

I also beg your advice on another subject, which relates to giving out patents where the purchaser has lost the receipt of the Receiver. This often occurs, and I have let some patents go out of the office on taking the certificate of the party concerned that the Receiver's receipt for the tract has been lost, destroyed, or cannot be found, which certificate, signed by the party, is filed among the receipts taken in the office.

With great respect,

GIDEON FITZ,

Register.

GEORGE GRAHAM, Esq.

Commissioner of the General Land Office.

Note.—The second section of the act seems to contemplate the privilege where two settlers are on one quarter section, that each may have a half quarter elsewhere in the district, without being confined to land adjoining their improvements. This will be a troublesome privilege. Ought the first applicant be questioned as to his knowledge of another settler on the same quarter section, and should the entire quarter be sold to the first applicant, if it appears that there is another entitled to a preference on the same quarter?

It is presumed that the law embraces those tracts having two acres more or less front, with forty in depth, as laid out generally on the Mississippi river, as well as square sections, though the lines do not run north and south, east and west.

G. F.

GENERAL LAND OFFICE,

July 28, 1830.

SIR: Your letter of the 5th instant, has been received. In reply to your inquiries I have to state:

First, the pre-emption law of 29th May last, which restricts the quantity to be located to "*one hundred and sixty acres, or a quarter section,*" does not intend that any excess of quantity over 160 acres in a tract of land technically known as a *quarter section* should be cut off in order to restrict the quantity literally to 160 acres. The law has taken it for granted that every quarter section contains 160 acres, which not being the fact, we must be guided by what we know to be the spirit and intent of the law. The same remark will apply to the excess of an eighth of a section over and above 80 acres, in cases where the tract is technically known to the law as a legal subdivision of a quarter section.

In cases of *fractional sections* you must conform to the legal subdivisions reported in the township plats, taking due precaution to adhere to the *quantity* to which the law restricts the pre-emption *as nearly as* practicable. You are not authorized under any circumstances to recognise or make any subdivision of a fractional section, in reference to location under the pre-emption law, or under any other circumstances whatever, but must be implicitly guided by the subdivisions sanctioned by the surveyor general.

In locating subdivisions of fractional sections, large excesses are not to be admitted. No *general* rule can, however, be prescribed; your own discretion will have to govern you, and special cases in which you have doubts may have to be referred to this office.

Tracts of land having a water front, and extending back for quantity, and which may sometimes exceed the quantity of 80 acres, are nevertheless legal subdivisions, subject to the pre-emption privilege.

In locating this description of lots, two lots are not to be taken, which in the aggregate would greatly exceed the quantity of 160 acres, a small excess in such cases may be admitted, where it was evidently the design of the surveyor to obtain as nearly as practicable the quantity of 80 acres.

In reply to your inquiry respecting giving out patents where the duplicate receipt cannot be produced, the party should be required to make oath that the receipt has been lost or destroyed as the case may be.

I am, &c,

J. M. MOORE, *Chief Clerk,*
and Acting Commissioner.

GIDEON FITZ, Esq.

Register, Mount Salus, Miss.

GENERAL LAND OFFICE,
June 5, 1831.

SIR: Your letter of the 8th ultimo has been received, in which I understand you to say that you have issued floating rights in those cases in which the individuals have not paid for the tract whereon the floating rights accrued under the 2d section of the act of 29th May, 1830, which provides "that if two or more persons be settled on the same quarter section, the same may be divided between the two first actual settlers, if by a north and south or east and west line, the settlement or improvement of each can be included in a half quarter section, and in such cases the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference."

This provision of the law is perfectly intelligible, but lest any misconstruction should take place by not demanding payment at the time of filing the proof, and in giving the pre-emptor until the 29th May, 1831, to complete payment subsequently to filing his proof, and the admitting of his claim, the circular of the 14th September last, 9th clause, states: "the law contemplates that payment be made for the lands claimed by the pre-emption right, at the period when the proof shall be filed."

Under these plain provisions of the law and the instructions, I am totally at a loss to comprehend your meaning, when you state "that a total perversion of the meaning of the act is held to be correct." By whom is such

perversion of the intention of the law entertained? If by the people at large, it is manifestly the duty of the Register and Receiver to give no countenance to such false opinions, and gross attempts to violate the law. You proceed by stating that "the only small part of the law that seems to guard against unlimited fraud on the public domain is set aside and totally evaded. This evasion and perversion is effected by applying the provisions of the act to lands which have long ago been offered for sale, and were subject to entry at the date of the act. Lands that intruders have cut down and worn out, and which they never intend to buy at any price. On these lands they prove that two settlers cultivated in 1829, and have possession on the 29th May, 1830. There being two settlers on the same quarter section gives them a right each to claim eighty acres elsewhere in the land district."

If it is to be understood from the foregoing quotation that you have permitted the subdivision of quarter sections between two settlers, without requiring each to pay for his half of such quarter section, there has been a most palpable misconstruction of the intention, as well as of the letter of the law, and the parties could not be legally entitled to floating rights for eighty acres without having made payment for the half quarter section on which the floating right accrued, as well as for the floating right itself.

You are therefore requested as soon as practicable to prepare a list of all the quarter sections upon which the settlements were proved and pre-emption rights admitted, and on which the *floating rights accrued*, agreeably to the form herewith transmitted, showing the *names* of the settlers, *tract, quantity, purchase money, and number of the certificate*, in case you have so misunderstood the law as to grant certificates for such quarter sections where there was no payment made thereon; and opposite to each case, under the head of "floating rights," state the particular *tract* on which the floating right was *applied*, by *whom applied*, and *number of the certificate*.

No patents will be issued for lands in your district until you shall have reported in the mode above required, and the office is satisfied that the floating rights have been granted agreeably to law.

Your special and immediate attention is requested to this subject, and it is desired that you communicate this letter to the Receiver, who is to join you in making the report.

I am, &c.

E. HAYWARD.

GIDEON FITZ, Esq.

Late Register, Mount Salus, Miss.

GENERAL LAND OFFICE,

August 3, 1831.

GENTLEMEN: In reference to the subject of my letter of the 6th June last, to G. Fitz, late register, a copy of which was enclosed to you in my letter of 22d ultimo, I have to inform you that a reply has been received from Mr. Fitz, from which I am happy to learn that the lands claimed by right of pre-emption, where two parties were interested, and on which floating rights accrued, were all paid for on or prior to the 29th May last.

Hence the difficulties which were apprehended in consequence of Mr. Fitz's representation in his former letter do not exist.

I am, &c.

E. HAYWARD.

REGISTER AND RECEIVER,
at Mount Salus, Miss.

GENERAL LAND OFFICE,
August 8, 1832.

SIR: In reply to your inquiry whether the affidavit required under the instructions of 8th May last, is to apply to all cases of ordinary private entries, I have to apprise you that such is the intention of the instruction, otherwise the affidavit would be no safeguard to prevent a conflict with *vested rights*.

No applicant has good cause to object to the affidavit, inasmuch as it only requires him to testify to the best of his knowledge and belief that he is not interfering with a vested right, as such interference would vitiate his entry.

Where a person applies for a pre-emption, who has built his house immediately over the corner of a section, and his claim is in parts of four sections, and a portion of the land covered by his alleged claim has been sold since 1st of May last, he has no claim to the portion so sold, as he has given no evidence of right to any particular tract. The law did not contemplate that any individual claimant should be allowed to stay the private entry of portions of *four* sections until the 5th of October next, and the party claiming the right of pre-emption has no right to complain, when he is permitted to make his election out of the unsold portions of the sections over which the greatest portion of his improvements extend.

I am, &c.

E. HAYWARD.

SAMUEL GWIN, Esq.
Register, Mount Salus, Miss.

LAND OFFICE, MOUNT SALUS,
November 28, 1830.

SIR: I beg leave to draw your attention to the instructions given by Mr. Moore, the acting Commissioner, on the 14th September last, in relation to the pre-emption law of the 29th May, 1830.

Until these instructions were given, I believe no person here supposed the law had any relation to lands which had previously been offered for sale, but the idea being once created, is likely to give a great deal of trouble in the land offices.

The law seems to depend entirely on the President's proclamation. The 4th section provides, "that this act shall not delay the sale of any of the public lands of the United States, beyond the time which *has been* or *may be* appointed for that purpose by the President's proclamation; nor shall any of the provisions of the *act* be available to any person or persons

who shall fail to make the *proof and payment* required *before* the day appointed for the commencement of the sales of lands, including the tract or tracts on which the right of pre-emption is claimed."

The law does not provide for the entry of any other lands, than such as were occupied and cultivated in the year 1829, and, therefore, under this act, no unimproved land can be entered, because the 3d section requires proof of "settlement and improvement," to be made in every case, before the entry can be made. The 4th section requires that the "proof and payment" shall be made *before the commencement* of the sales, including the lands on which the pre-emption is claimed, and consequently, all lands after being offered at public sale, are freed from any further incumbrance of pre-emptions under the act. The act is to continue in force one year from its date, but if all the public lands should, before that date, be offered for sale, the act would cease to operate.

Mr. Moore has suggested the expediency of requiring each applicant to take an oath that, "to the best of his knowledge and belief, no claim exists to the same land, as a pre-emption, under the act of 29th May, 1830." If the applicant claim by pre-emption, this oath would be improper, because it would go to disprove his right, and as the law does not authorize the entry of any but pre-emptions, the oath would seem to be inapplicable. It would be extremely troublesome to require this oath in every case, where the land has been offered for sale; some would refuse to take the oath, because they do not believe the law applied to such cases. Many persons send money by mail, by servants and others, who could not take the oath, nor do the purchasers themselves, in all cases, know whether the land is improved or not.

I beg you will excuse me for troubling you on this subject; the inconvenience in this office, in answering the thousands of questions, as to what may, or what may not, be done under this act, is beyond any thing you can imagine. It is not generally believed, that the law intended to prohibit entries of any land which has been offered at public sale, and there seems to be a contradiction between the law and instructions; because the law requires proof of occupancy in all cases, and the instructions require an oath, that would go to disprove that fact. If it is desirable that the above oath shall be taken in every entry, when the land has been offered for sale, you will have the goodness to advise me, as it is my wish to comply with instructions which are intended for the guide of the Registers.

With great respect,

GIDEON FITZ,

Register.

ELIJAH HAYWARD, Esq.

Commissioner of the Gen. Land Office, Washington.

GENERAL LAND OFFICE, Feb. 17, 1831.

SIR: In recurring to your letter of 28th November last, it appears that you misconceived the meaning of the circular letter of the 14th September last, in reference to the pre-emption law of the 29th May, 1830. That act grants pre-emption rights in virtue of cultivation in 1829, and possession at the date of the act to *all lands* which have been surveyed, and not appropriated, and requires that its provisions shall not delay the sale of any

public lands. The provisions of the law should have been restricted to those lands which had not been offered for sale at its date, thereby placing the individual who occupied and cultivated lands subject to private entry at the date thereof on the same footing as any other person who was willing and had the right to purchase the land at the minimum price. As the law requires that its provisions should not delay the public land sales, the only regulation by which delay of public sales could be prevented was, to require the pre-emptioner to prove his right previously to the commencement of the public sales. But the lands subject to private entry at the date of the act, were also made subject by the law to the pre-emption privilege throughout the whole term of its operation, and no authority of law existed to compel the pre-emptioner to prove his right before the utmost limit of the term, 29th May, 1831, a whole year. The question therefore arose how to admit the private entries of lands which had been offered at public sale prior to the date of the act of 29th May, 1830, to proceed as usual without running the hazard of interfering with persons who, under the strict letter of the law, might have a vested right to a pre-emption, but whom we could not compel to come forward with the proof of such claim within the year. The measure proposed in the 2d article of the circular of 14th September last, was merely intended as a preventive for wilful or ignorant interference with the individual thus situated who had a good claim to a pre-emption under the letter of the law. The oath there required has no reference to the proving of a pre-emption right, but is a precaution to prevent interference with such right; and on a strict perusal of the circular, and comparison between it and the instructions of 10th June, 1830, with the act itself, you will find that there is no contradiction, and moreover, that no pre-emption rights are intended to be established or recognised on lands after they have been offered at public sale, subsequent to the passage of the act and at any time during the operation thereof; but, on the contrary, that those claims are provable only prior to the public sale. I would observe that many cases exist where lands have been sold at private sale to which the right of pre-emption has been since proved, and will be sustained under the law.

I am, &c.

ELIJAH HAYWARD.

GIDEON FITZ,

Register of the land office,

Mount Salus, Miss.

LAND OFFICE, MOUNT SALUS,
December 7, 1830.

SIR: I beg leave to ask your opinion on the following points, relating to the pre-emption act of 29th May, 1830:

1. What limit, if any, may be set as to the age or denomination of persons who may claim pre-emptions?
2. If the father of a family had settled and improved on the corner of four adjacent quarter sections, may his children, who resided with him, whether under or over the age of 21 years, claim three of these adjacent quarters, and the father have the remaining quarter?

3. If two settlers on the same quarter, as father and son, two brothers, or other persons not related, residing in the same house, and cultivated together the same ground, which ground cannot, from its situation, be divided, as the law directs, and whose claim to that quarter may be entered jointly, will each be entitled to an additional half quarter, and, if so entitled, may such additional half quarter be entered separately, or should another entire quarter be entered jointly by them?

4. The instructions of the 10th June, require that the testimony shall be taken "*in the presence*" of the Register and Receiver; but as the law only requires that the testimony shall be "*satisfactory*" to them, and there being widows, aged and infirm persons, who cannot attend at the land office, or whose indigent circumstances may prevent them, I respectfully suggest the propriety of having the testimony of such persons taken by a magistrate in answer to interrogatories which may be furnished by the Registers and Receivers.

5. If the occupant who cultivated in the year 1829, had died in 1830, before the passage of the act, but his slaves or hired persons, or others continued to occupy and possess on the 29th May, 1830, when the act was passed, would the widow or other legal heirs or representatives of such person, be entitled to the benefits of the pre-emption?

6. Will the cultivation of pumpkins and planting peach trees in the year 1829 be sufficient cultivation?

These questions are now waiting for determination at this office.

With great respect,

GIDEON FITZ, *Register.*

ELIJAH HAYWOOD, Esq.

Com. General Land Office, Washington.

GENERAL LAND OFFICE,

February 17, 1831.

SIR: In reply to the first and second inquiries of your letter of the 7th December last, I have to state the law sets no limit to the age of the party recognisable as entitled to a right of pre-emption. If a man has a number of children who each cultivated a separate tract of land, each one is to be permitted to prove his claim, and if the same be admitted, each is entitled to a certificate of purchase on payment of the purchase money.

Reply to third inquiry. When two or more of a family, no matter how related, cultivate, jointly, a tract of land, they are to receive a joint certificate for such tract of land, and a joint floating right to a quarter section elsewhere. The patent will issue to them as tenants in common, and the partition of the land among themselves is to be a private transaction.

Reply to fourth inquiry. The testimony must be taken in such way as will be fully satisfactory to the Register and Receiver, who are the judges of the proof.

Reply to fifth inquiry. If the cultivator in 1829 died before the passage of the act, and his children, widow, or others of the same family interest, occupied at the date of the act, the right is to secure to the head or representative of the family, or person having the maintenance thereof.

Before replying to your 6th inquiry, whether the cultivation of pump-

kins and planting peach trees in the year 1829, be sufficient cultivation within the meaning of the act, I must inspect the proof. You will, therefore, be pleased to forward the same.

I am, &c.

ELIJAH HAYWARD.

GIDEON FITZ, Esq. *Register of the land office,*
Mount Salus, Mississippi.

LAND OFFICE, MOUNT SALUS, MISS. *March 20, 1831.*

SIR: I have received your letter of the 17th February, in reply to mine of the 28th November last. As a public officer, I think it my duty to make some further remarks, and give you some further information as relates to the pre-emption act of the 29th May, 1830.

I beg you will have the goodness to bear with me, as the subject is of great importance to the public. I do not wish to contend unreasonably as to the true meaning of the act, but to suggest to you from experience, what mischief may arise from a doubtful or wrong construction of the act. First as to the words of the act: the first section gives to any settler or occupant of the unappropriated public lands who was then in possession and cultivated any part thereof in the year 1829, the right to enter not more than 160 acres, to include his improvements, upon paying the minimum price, &c. This is not a new privilege as regards lands then liable to entry, because settlers had that right before, without proof of occupancy, and without limit to quantity, or time of payment. The privilege, therefore, must have been intended for some other lands than those which were then liable to entry. The first section of the act does not say *when* the payment shall be made, but the fourth section does fix the time of paying, by providing, that none of the provisions of this act, shall be available to any person or persons, who shall fail to make the proof and payment required (that is required by the first section of the act) "before the day appointed for the commencement of the sales of lands, including the tract or tracts on which the right of pre-emption is claimed." There is but one kind of pre-emption right created by the act, and to perfect that, the proof and payment must be made before the first day of the public sales, which embrace the pre-emption tract. This provision also defines clearly what class of the public lands is subject to the pre-emption right. If the pre-emption right given by the first section of the act was applicable to lands then liable to private entry, that part of the privilege is effectually repealed and rendered void by the fourth section, which guards against any delay of the sales, as well private as public, "beyond the time which has been [that is all past time] or may be [that is all future time] appointed for that purpose by the President's proclamation." You will observe, that the act does not read as indicated in your letter, that is, "should not delay the *public land sales*," but it reads "that this act [that is that no part of the act] shall delay the sales of any of the public lands of the United States," (which applies as well to private as public sales,) beyond the time which has been or may be appointed for that purpose by the President's proclamation. These words of the act, apply as well to private as to public sales, and to past time, as well as to future time, and no other meaning can be attached to the words from any other part of the law. As the fourth clause governs

all other parts of the act, as to the time of making payment, it explains or repeals in effect, all parts which do not comport with that meaning. The fourth section prohibits the public officers from suspending, under that act, any public land from sale after it has been offered at public sale, according to the President's proclamation. The act is to continue in force one year from its date, but that section does not give the privilege of applying it to land then subject to private entry. Thus much for its words, and now for its reasoning and effect. The credit system, as relates to the public lands, has been fully tried and abandoned, it is to be hoped forever. After having first extended the term for making payment for four years, then from time to time for a long series of years, and at last vast quantities of the public land reverted to the United States, after a considerable portion of the price had been paid on it, how is it to be expected that settlers now will pay all up in one year, and free the land from intruders? In general, they will do no such thing, and at the end of the year, a large additional number will be settled, claiming equal privileges with their neighbors, and uniting to elect members to Congress, who will promise to continue the pre-emption privilege from year to year forever.

The act takes effect from its date, and could not be known in the public land districts for months after its passage.

In all that time, the sales, private and public, were going on under the full faith of the Government, pledged for the validity of such sales under former laws. It is too unreasonable to think, that the Government would involve its citizens in such enormous difficulties, without a possibility of their knowing any thing of the matter. Cultivation in 1829, and possession on the 29th May, 1830, is all that is required to give the pre-emption privilege. If a child, a slave, or hired person, without regard to age, sex or color, should have cultivated a hill of corn, potatoes, or ground peas, on the land in 1829, the father of such child, the owner of such slave, or employer of such hired person, and the hired person and child themselves, living on public land, may claim the right of pre-emption, long after the tract may have been purchased by an innocent and honest purchaser, and houses, gins and fields made thereon, worth thousands of dollars. The improvements made by the pre-emption claimant on the land, may be so obscure as not to be observed by a purchaser even if he had examined the land for that purpose, or such improvement may never have existed; if it be proved in the land office, it will be sufficient to get the title. As to possession on the 29th of May, 1830, it had as well mean nothing as something, because that is always established, if it cannot be disproved, by showing that the claimant had relinquished or abandoned his pretensions. If a person had cultivated a hundred tracts, more or less, scattered all over the district, by himself, negroes, hirelings, or children, each having a hill of corn, potatoes, goober peas, or one turnip, he could keep all those tracts out of market one year, for he may select which he pleases, just before the close of the term, or may not purchase any. It is calculated to bring into fierce action two among the worst passions of the human heart, if not properly controlled, that is, avarice and revenge. Many pre-emption rights may be claimed for no other view than to get the labor and improvements of innocent and honorable purchasers. It will bring about the most odious schemes of extensive speculation. The demoralizing system of fraud and speculation, if only confined to lands which have not been offered for sale, will by and by be looked on with serious regret by the moral part of the

community; but if suffered to be applied to land which has been offered for sale, and was subject to entry at the date of the act, the evils will be beyond any thing that you can now imagine. It will begin with heart-burning litigation and bloodshed, if not something like a civil war. Swarms of speculators will be out to get floating rights as they are called from every part of the district, which floating rights will be scattered along the banks of the Mississippi, and other valuable lands, leaving small intervals which could not suit other persons, and thus secure all the best land at the Government price, and deprive the greater part of the community of all chance to purchase, but at second hand, and at a high price. If the evil would stop here, it could be borne with, but many innocent and honest purchasers will probably be totally stripped of their labor and improvements.

The mischief likely to be done to innocent and honest purchasers, is likely to be ten times greater than the injury would have been to lawless settlers on the public lands. Such settlers generally have but small improvements, and it has been common among purchasers, to pay such settlers a generous price for their improvements, both at public and private sales. There have been very few complaints of hardships of that nature in this district. I am in favor of donations of land to those who are not able to purchase, and that is the only way in which they can be benefitted. Pre-emptions are of but very little use to those who are not able to pay for them. They may lose their time and labor on them, and at last have to give them up. But no claim should be suffered to exist on the public lands, until the tracts claimed can be designated and marked on the maps. All other schemes of designating are too uncertain and dangerous to the rights of individuals. Permit me, sir, respectfully to suggest the propriety of suffering the pre-emption act to be construed finally hereafter by an act of Congress when its effects will be better understood, and the executive officers may be relieved from the responsibility.

With great respect,

GIDEON FITZ, *Register*.

ELIJAH HAYWARD, Esq.

Commissioner of the General Land Office.

LAND OFFICE, MOUNT SALUS,

May 8, 1831.

SIR: It becomes my painful duty once more to write in relation to the pre-emption law of 29th May: 1830, I have been informed that a total perversion of the meaning of the act is held to be correct, and the only small part of the law that seemed to guard against unlimited fraud on the public domain, is set aside and totally evaded. This evasion and perversion is effected by applying the provisions of the act to lands which have long ago been offered for sale, and were subject to entry at the date of the act; lands that intruders have cut down and worn out, and which they never intend to buy at any price. On these lands they prove that two settlers cultivated in the year 1829, on the same quarter section, and had possession on the 29th May, 1830. There being two settlers on the same quarter section, gives them a right each to claim eighty acres elsewhere in the land district.

These two floating eighths are purchased from the claimants by bands of speculators, and located on the choice rich land on the banks of the Mississippi, that is now worth, in its wild state, from five to ten or twenty dollars per acre. They are sometimes located on improved places, but not cultivated in 1829. The floating privileges were at first worth \$100 for each tract, but have become so plenty now as to be had at ten dollars each. The speculator pays a dollar and a quarter per acre to the United States for the floating rights, but no payment is made for the cultivated tract, which is the basis of the claim. The pre-emption claimant then perhaps takes his grog, and returns home to live on the public land, as usual; and when that tract is worn out he will move to another, and be ready to sell another floating right. He says he would be a great fool to buy land, because those who have purchased land and reside on it, can have no such privileges. That in future, not more nor less than two settlers should get on the same quarter section, because two has become the lucky number. In old times the odd numbers were supposed to be the lucky numbers, but things have changed, and the United States are now in fact hiring intruders to go on the public lands, and bribing them not to buy land. The first two intruders on a quarter section now get from 10 to \$100 for violating the laws of their country; and the keen eyed speculator gets a quarter section, that the Government could sell for 800 to \$1,000, by doing justice to the community, and giving each individual an equal chance to buy. Under these unfortunate systems of exclusive privileges, the idea has become wide spread, among old and young, that there is no harm in defrauding the public: that it is fair game: that when laws are made to give exclusive privileges, the people are no longer bound in honor to observe those great moral rules that bind a people together by equal burthens, and equal rights. I am persuaded, that when persons of tender age at least learn to get valuable property by hard swearing, they will in the next generation transfer their plans from the Government to operate on individuals.

I am of opinion that the pre-emption privilege does not obtain without payment being made for the land which was cultivated in the year 1829, and possessed by the same individual or individuals on 29th May, 1830, because the words of the law (first section) which gives the right, makes payment the condition on which the privilege may originate: that is, the right to enter land under the act depends on the fact of payment being made for the land which embraces the improvement. As the President is the officer under the constitution to see the laws be properly executed, I beg leave to suggest the propriety of submitting the case to him for consideration; and if he should be of opinion that the practice above alluded to of totally evading the intention of the law, by which individuals can possess themselves of the most valuable property of the Government, without an equivalent, or any excuse for doing so, is a violation of the provisions of the act, the Register should be instructed to report every such case to the Commissioner of the General Land Office.

The pre-emption system is not a practicable system to dispose of the public lands; and if the President could see the outrageous uproar and confusion in the Register's office for one day, I am well convinced he would never sign another pre-emption law. The pre-emption rights heretofore were confined to small districts, interspersed with private claims, and the right was given only to actual settlers who *resided* on the very tract claimed by them, and then only to heads of families, and persons over 21

years of age. There were no floating rights. Even that system created great confusion and fraud in Louisiana, and was generally believed to do more harm than good. I know one considerable battle royal fought on the occasion, and was told by the deputy surveyors, that many of the tracts they surveyed, perhaps in the very year the pre-emption right obtained, were in a wild state, where they did not see the trace of a human being, were proved to be in a state of cultivation. At present it is customary for the leader of a party of speculators to agree with a number of dealers, with their witnesses, men, women and children, to meet on a certain day at the Register's office. They come like the locust of Egypt, and darken the office with clouds of smoke and dust, and an uproar occasioned by whiskey and avarice, that a Register at least can never forget. Hundreds of questions are put to know the meaning of a law that no mortal ever understood. The papers, books and maps, are whirled through the house from place to place, and a dozen persons claiming to be first in to prove. Then twenty more wish at once to know what they have to prove. The great difficulty is generally over when it is known what is to prove. The speculator tells the settler that he cannot get his money without proving, and if the claim is not so clear as it might be, that it is as good as others that have been allowed: that he had as well have the land as another. In this way sometimes three hours are consumed before one claim is got through. I believe I should have quit the office ere this, but for the expectation of being relieved by my successor. I am distressed, and my health is fast sinking under this dreadful system. I cannot hold out long, and no price would induce me to act under such another pre-emption law.

It is believed by many that the law itself was intended for fraud, because if it had been the object of him who drew it to give the settler his improvement only, it was wholly unnecessary to give him floating rights, contrary to the object of all such laws; and if the object of Congress was to prevent any land from being sold for more than a dollar and a quarter per acre, then it would only be necessary to let the lands be entered without offering them at public sale. The valuable lands can very easily be disposed of for that price without killing the public officers to write volumes of pre-emption lies or truths.

With great respect,
GIDEON FITZ, *Register.*

ELIJAH HAYWARD, Esq.

*Commissioner of the General Land Office,
Washington city, D. C.*

WASHINGTON, MISS. July 11, 1831.

SIR: I have received your letter of 6th June, 1831, requesting a report of tracts of land claimed under the pre-emption act of 29th May, 1830, from which floating claims have originated, and on which payment has not been made for the basis of the claim. The cases alluded to in my letter of the 8th May, were such as speculators had purchased the floating part from the claimants, and paid the United States for such floating tracts, but no payment was made for the basis of the claim.

On discovering that some of the claimants and speculators supposed that such a course was justifiable, or would not probably be examined into, I

took prompt measures to ascertain the facts at the Receiver's office, that I might report the cases to the General Land Office. My determination was made known, and I wrote a note to the Receiver, requesting him to report such cases to me; and on making out the applications afterwards, I wrote across the face of them, the word "Pre-emption," extending entirely across the application as well for the basis as the floating part, which prevented the application from being torn apart, or separated, without being detected by the Receiver. This course created doubts in the claimants and speculators as to the effect, and then the speculators determined not to pay the claimant for the floating part, without first seeing the basis of the claim paid for to the Government. When the claimants were not able to pay for the basis of the claim, the speculator furnished the money, and took the claimant's obligation to refund it, or make over the title of the whole to the speculator after the patent issued. Thus, the project of obtaining the Receiver's receipt for the floating part, without paying for the basis of the claim, was defeated, and before the last day of the term, 29th May, 1831, the whole were paid for. There are no cases to be reported that I know of, and I was very particular in examining the entries for this purpose. I am glad that it ended as well as it did; but it is to be hoped that no other pre-emption law will ever be passed. I believe that the community have become disgusted at the demoralizing effect of the system, and the unequal bearing it has on the community generally.

You seem to be under the impression that the floating *rights* were, or might have been issued in other names than the settler. This was not the case. The title, in every case, is intended to come out in the name of the settler, and all the entries are made in that manner, because the law forbids, or renders void, any transfer of title before the patent issues.

With great respect,

GIDEON FITZ,

Late Receiver at Mount Salus, Miss.

ELIJAH HAYWARD,

Commissioner of the General Land Office.

LAND OFFICE, MOUNT SALUS, *June 22, 1832.*

SIR: Does the word "*ordinary*," in the third paragraph, under the oath prescribed in your instructions of the 8th ultimo, for pre-emptors, allude to *all entries*, whether they should be for sections, halves, quarters, eighths, or does it have allusion alone to the entries under the forty acre law?

The construction put on this clause in the office is, that it has allusion to the forty acre entries, for were it to extend "*to all*," it would greatly retard the sale of public lands.

The first day after the instructions were received, we required *all* applicants to take the oath. Some refused to do so, when there was not a stick amiss on the land, alleging, that if it was required by the Government for them to search half a day for a magistrate to take an oath, they would not enter, but settle on the land, and run future consequences.

Again, suppose a person applies for a pre-emption, (the land applied for being already sold, *but since the 1st May last*,) whose house stands immediately over the corner, or, in other words, *is on four sections in part*, but on no one in the whole, is he entitled to a pre-emption to that portion already

sold as above? To be a householder, to hold a pre-emption, must not the house be *entirely* on the land he wishes to hold?

Your answers are requested early. I believe as yet we have only two conflicts in this office.

Yours, respectfully,

SAM. GWIN.

ELIJAH HAYWARD, Esq.

Commissioner General Land Office.

LAND OFFICE, MOUNT SALUS, MISSISSIPPI,
January 16, 1831.

SIR: The many different propositions made by members of Congress to dispose of the public lands, makes it probable that some change in the system will be effected; I therefore ask your indulgence to make some general remarks on the subject: I have been engaged in the land business from the year 1806, first as a deputy surveyor, about one year; then about fifteen years as principal deputy for the western district, Louisiana; four years of which time, as one of the commissioners for deciding on and adjusting the claims of that district; and have now been more than eight years Register for the Choctaw land district. I think it is to be regretted that there is so much feverish anxiety to make alterations in the land system, by members of Congress, who have not the practical experience necessary to enable them to avoid confusion and endless difficulties.

The pre-emption act of the 29th May, 1830, is the most unguarded, and in all respects, the worst land law that has ever been passed in the United States. In districts where the public land could not be disposed of, for many years, on account of private claims, there seemed to be some necessity for allowing pre-emptions, but where there are no private claims to be adjusted the exclusive advantage given to those who go on the most choice spots, and that in direct violation of an act of Congress, has a very unequal bearing, and demoralizing effect. If the whole community, who are equally interested, were authorized by law to make settlements on the public lands, the advantages would seem to be equal, but if such was the case, I think it likely that it would cause the loss of many lives in the general scramble which would take place. If the pre-emption right only extended to the forfeited lands, or such as had been improved under the credit system, where the tracts paid for had cost the parties a high price, there would seem to be some reason in it; but that a general sweep should be made of the most valuable lands of the United States by intruders, at as low a price as that which the poorest person in the nation would have to pay for the poorest pine barren, is unreasonable in the extreme.

The unfortunate provision in the act of 1830, which authorizes a *floating eighth*, as it is called, is likely to create much speculation. Where two settlers are on the same quarter section, and each of their improvements cannot be included respectively in a half quarter, by an east and west, or north and south line, then each is entitled to eighty acres "*elsewhere* in the district."

I find there is great anxiety among claimants to get out these *floating half quarters*, which can be placed on other valuable places, leaving strips

of vacant land between, as to prevent the sale of the intermediate lots to any but those who hold the pre-emption claims.

The excuse for all these exclusive privileges ever has been to favor poor people, but it is a fact that the rich are the persons benefitted in the end, because the poor, or at least that degree of indigence which would render acts of charity necessary on the part of the Government, cannot pay for the land, and all they can do is to sell their claims and remove to some other place. It is also a fact that many of the very wealthy inhabitants send overseers and slaves, or hire men to make improvements on the most choice places for the purpose of getting pre-emptions. Those meritorious citizens who wait patiently for the sale of the public lands, and will not violate the sacred laws of the land, cannot procure a choice place, but at second hand, and then at a high price.

To remedy these intolerable evils, it is only necessary to cause the surveys to be made, and offer the lands for sale with proper despatch. The poorer class are greatly benefitted by having a great extent of country to select in, and the rich are not so anxious to buy when there is a great quantity of land in market. The mere speculator in land is always deterred from buying when he knows that the prospect of selling to advantage is weakened by the great quantity in market. I think it would be beneficial to the Government, and of great advantage to the poor, to suffer such as are not able to buy land, to have a half quarter or quarter section donated to them. Their inability to buy might be proved to Registers and Receivers, on the plan that pensions are obtained by the revolutionary soldiers. But such donations should be confined to land which had been subject to entry some few years. I think also that it would be justice to lessen the price of land which had been subject to entry, say five years. This could be carried into effect by the President's proclamation designating the townships which should be subject to entry at the reduced price. The maps of such townships then might be marked conspicuously, so as to enable the Registers to avoid errors in the sales. It is certainly unreasonable to sell the poorest land at the same price with that of the richest. It is a disadvantage to any Government or community to have beggars, and the best way to avoid that, is to let every head of a family own land. The project proposed by some to cut up the sections into forty acre tracts, would be attended with endless difficulty. It would destroy the use of all the tract books at present in use in the land offices, and would make it so difficult for purchasers to describe the *lots*, for the tracts could not be designated any other way, that erroneous entries would continually occur. It is very difficult now to make purchasers understand the divisions of half quarters, simple as it is; besides a tract of eighty acres is small enough for any one person to live on, and it would be much better to lessen the price, than to lessen the tracts. The surveyors general should have a sufficient number of efficient clerks to keep up the business in their offices. This department has never been sufficiently provided for. It is a responsible laborious office. Public officers should not be necessarily dependent on other employments for a living, but should be dependent on their offices, be well paid, and made to do their duty, and then the public would be benefitted.

With great respect,
GIDEON FITZ.

P. S. If pre-emption is allowed on land which has been offered for sale, and is at any time liable to entry, then the private sales will cease entirely, for no person will pay for land, while it can be held under improvements, and if one year only be allowed at first for such privileges, the settlers will have increased at the end of that time ten fold, and the community will unite in electing members to Congress, who will *promise* to extend the privilege from year to year forever. In this case it would be better at once, to give up the public land to the States and Territories where it lies.

G. F.

ELIJAH HAYWARD, Esq.

Commissioner of the General Land Office.

F.

Copies of the circular letters of instruction to the Registers and Receivers of the several district land offices, in relation to the execution of pre-emption laws.

GENERAL LAND OFFICE, June 10, 1830.

GENTLEMEN: Annexed you have a copy of the act of Congress approved on the 29th ultimo, entitled "An act to grant pre-emption rights to settlers on the public lands.

This act grants to any person who actually *cultivated* a tract of the public lands in the year 1829, and who, continuing thereon, was in the *actual possession* of that tract at the date of the passage of the act, a pre-emption right to the lands at \$1 25 per acre.

The fact of the *cultivation* in 1829, and that of the *possession* of the land applied for on the 29th of May, 1830, must be established by the affidavit of the occupant, supported by such corroborative testimony as may be entirely satisfactory to you both. The evidence must be taken by a justice of the peace, *in the presence* of the Register and Receiver, and be in answer to such interrogatories propounded by them as may be best calculated to elicit the truth. The whole of the evidence must be carefully filed in the office of the Register.

All lands *not otherwise appropriated*, of which the township plats are or may be on file in the Register's office, prior to the expiration of the law, are subject to entry under the act.

Where the whole of the improvement is embraced in the limits of a *quarter section*, the occupant must be confined to the entry of that particular quarter section; but where the improvement is situated in different quarter sections, then the occupant is entitled to enter the two adjacent legal subdivisions or half-quarters in which the improvement may lie, not exceeding one hundred and sixty acres in the whole.

In making your usual returns to this office, you will, in all cases of purchase under this act, designate them by marking on the returns and the certificate of purchase, "pre-emption act of 1830."

With great respect, gentlemen, your obedient servant,

GEORGE GRAHAM, *Commissioner.*

The REGISTER and RECEIVER

of the land office at ———

AN ACT to grant pre-emption rights to settlers on the public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year one thousand eight hundred and twenty-nine, shall be, and he is hereby, authorized to enter, with the Register of the land office for the district in which such lands may lie, by legal subdivisions, any number of acres not more than one hundred and sixty, or a quarter section, to include his improvement, upon paying to the United States the then minimum price of said land: *Provided, however,* That no entry or sale of any lands shall be made under the provisions of this act which shall have been reserved for the use of the United States, or either of the several States in which any of the public lands may be situated.

SEC. 2. *And be it further enacted,* That if two or more persons be settled upon the same quarter section, the same may be divided between the two first actual settlers, if, by a north and south or east and west line, the settlement or improvement of each can be included in a half-quarter section; and in such case the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference.

SEC. 3. *And be it further enacted,* That, prior to any entries being made under the privileges given by this act, proof of settlement or improvement shall be made to the satisfaction of the Register and Receiver of the land district in which such lands may lie, agreeably to the rules to be prescribed by the Commissioner of the General Land Office for that purpose, which Register and Receiver shall each be entitled to receive fifty cents for his services therein. And that all assignments and transfers of the right of pre-emption, given by this act prior to the issuance of patents, shall be null and void.

SEC. 4. *And be it further enacted,* That this act shall not delay the sale of any of the public lands of the United States beyond the time which has been or may be appointed for that purpose by the President's proclamation; nor shall any of the provisions of this act be available to any person or persons who shall fail to make the proof and payment required before the day appointed for the commencement of the sales of lands including the tract or tracts on which the right of pre-emption is claimed; nor shall the right of pre-emption contemplated by this act extend to any land which is reserved from sale by act of Congress, or by order of the President, or which may have been appropriated for any purpose whatsoever.

SEC. 5. *And be it further enacted,* That this act shall be and remain in force for one year from and after its passage.

Approved, May 29, 1830.

ANDREW JACKSON.

GENERAL LAND OFFICE,
September 14, 1830.

GENTLEMEN: Numerous interrogatories having been propounded in relation to the act of 29th May last, entitled, "An act granting pre-emption

rights to settlers on the public lands," I subjoin the following replies for your information and government, embracing, it is believed, all the prominent points which have yet arisen, and have to add, that if any case shall occur at your office which, after a careful perusal, appears to you not provided for in the present or former circular letter in relation to that law, you will make it the subject of a joint communication.

1st. In cases where more than two persons were settled on the same quarter section, the two first actual settlers, only, are entitled to the right of pre-emption under the 2d section of the act, and none others are provided for.

2d. As the law grants to any settler on the public lands who was in possession thereof at the date of the act, and cultivated the same in 1829, a right of pre-emption to lands which, having been offered at public sale, were subject to private entry at the same date, and has provided the term of one year for its operation, the question arises whether the ordinary private entries of such lands are to be suspended until the 29th May, 1831, when the occupant claims shall have been proved and filed, or whether the ordinary private entries can proceed at the hazard of interfering with the occupant within the year. This being a difficulty against which the law has omitted to provide, and it not being believed to be the intention of its framers that the ordinary private entries should be suspended for the term of one year, we must therefore so act as to make the law available to the occupant to its full extent as to time, and also permit the ordinary private entries to proceed. It is therefore to be expressly understood that every purchase of a tract of land at ordinary private sale to which a pre-emption claim shall be proved and filed according to law, at any time *prior* to the 30th May, 1831, is to be either null and void (the purchase money thereof being refundable under instructions hereafter to be given) or subject to any future legislative provisions.

Therefore, prior to your permitting any entries of land, you will have to exercise every possible precaution to prevent such interference. The only precaution that can be pointed out to you, is to require the oath of the applicant, that, to the best of his knowledge and belief, no claim exists to the same land, as a pre-emption, under the act of 29th May, 1830.

The right to enter pre-emptions within any tract of country offered at public sale *subsequent* to the date of the act ceases at the time of the commencement of such public sale. Therefore all tracts remaining unsold after such public sale, are, of course, liable to private entry in the same manner as if the pre-emption law had not been passed.

You are requested to make a report to this office on the 1st of November next, of all private sales, which shall, up to that period, be found to conflict with pre-emption rights—and *monthly* reports of the same character are requested thereafter.

3d. The settler has the right to select any one of several tracts which he may have actually occupied at the date of the act, and cultivated in 1829.

4th. It is the intention and object of the law that where two persons are settled on a quarter section, each of them should obtain his own improvements as near as practicable, and if this can be done by dividing the quarter section by an east and west or a north and south line, the Register and Receiver will proceed to make the division; but if such division would deprive either party of a material portion of his improvement, then the parties may be permitted to take the whole quarter section jointly, and

make such division among themselves as they may prefer for their mutual interest. The entries in your books, the Receiver's receipt, and the Register's certificate, in such case, are to be in the *joint names* of the parties, and the patent will be issued to them as tenants in common.

5th. When two or more persons have settled on a quarter section, and have relinquished their claims to one person, prior to the date of the act, those who have relinquished have no claim to a pre-emption.

6th. The act of 31st March, 1830, entitled, "An act for the relief of the purchasers of the public lands, and for the suppression of fraudulent practices at the public sales of the lands of the United States," has provided the special privilege of pre-emption to the purchasers, their heirs or assignees, of all lands relinquished under any of the laws passed for the relief of purchasers of the public lands, and of such lands further credited under the relief laws passed in the years 1821, 1822, or 1823, as have since reverted to the United States by reason of non-payment, which right extends to the 4th day of July, 1831. The privilege of entering any such lands under the general pre-emption law of 29th May, 1830, does not exist. The right of pre-emption under the act of 29th May, 1830, may, however, be claimed on that description of lands remaining unsold *which were not further credited* under any of the relief laws above mentioned, and which *have reverted* to the United States for non-payment, under the act of 10th May 1800.

7th. It being the intention of the law to confine the privilege of pre-emption to the *tract* occupied and cultivated, to a *maximum quantity of one quarter section*, it results that where such tract is a *fraction* containing *less* than the quantity of a quarter section, the right of pre-emption does not extend beyond the quantity of such fraction. In cases, however, where the fraction exceeds the maximum quantity, the entry is to be made conformably to the legal subdivisions, in such manner as to obtain the quantity as nearly as circumstances will admit, and to include the improvements of the occupant.

8th. Although a quarter section may be found to contain rather more than the ordinary quantity of one hundred and sixty acres, the right of pre-emption is to extend to the full quantity of such quarter section. If, however, such quarter section (situate on the north or west sides of the township in which the excesses of quantity are thrown agreeably to law) should contain so large an excess as to have rendered it necessary for the surveyor general to subdivide the same into three or more lots of eighty acres each, the party in such case is to take two adjoining lots including his improvements.

6th. The law contemplates that payment be made for the lands claimed by the pre-emption right, at the period when the proof shall be filed.

10th. Possession at the date of the act, and cultivation in 1829, are both essentially necessary to the conferring of the pre-emption privilege, the absence of either of these requisites will vitiate the claim. The building of a mill is a "*possession*," but without actual cultivation it does not confer the pre-emption privilege under the law. The extent and nature of the *cultivation* are points concerning which the law is silent. The ordinary culture of the soil with the view to the raising of a crop for *farming purposes*, either of Indian corn, small grains, clover, cotton, tobacco, or esculent roots, is all that is to be looked to as regards the requisite "*cultivation*."

11th. An individual who mediately or immediately has acquired a title to a tract of public land which he occupies and cultivates, and who, either by accident or design, has so constructed his fence as to include part of any adjoining tract of public land, does not thereby acquire a right of pre-emption, under the law, to such adjoining tract.

12th. When the occupant is unable to pay for a full quarter section, he may be permitted to enter the half quarter which shall include his improvements, to be either the east or west half of such quarter, the divisional line running north and south, in the ordinary mode prescribed by the act of 24th April, 1820.

I am, very respectfully,

Gentlemen, your obedient servant,

JNO. M. MOORE,

Acting Commissioner.

The REGISTER and RECEIVER

of the Land office at ———.

P. S. *To the Receiver.*—You are requested hereafter to render your quarterly accounts in a book form of the foolscap size, the sheets of paper to be securely stitched together, and all receipts for incidental expenses, and for Register's salary and commission, to be written on one or more of the last pages of the account.

GENERAL LAND OFFICE,

May 8, 1832.

GENTLEMEN: The following is a copy of the act of Congress, approved on the 5th of April, 1832, entitled "An act supplementary to the several laws for the sale of public lands."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the first day of May next, all the public lands of the United States, when offered at private sale, may be purchased at the option of the purchaser, either in entire sections, half sections, quarter sections, half quarter sections, or quarter quarter sections; and in every case of a division of a half quarter section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter sections, which may thereafter be sold, shall be ascertained as nearly as may be, in the manner, and on the principles, directed and prescribed by the second section of an act, entitled, "An act concerning the mode of surveying the public lands of the United States," passed on the 11th day of February, 1805; and fractional sections, containing fewer or more than 160 acres, shall, in like manner, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Secretary of the Treasury: *Provided,* That this act shall not be construed to alter any special provision made by law for the sale of land in town lots: And, *Provided, also,* That no person shall be permitted to enter more than one half-quarter section of land under this act, in quarter-quarter sections, in his own name, or in the name of any other person, and in no case unless he intend it for cultivation, or for the use of his improvement: and the person making application to make an entry under this act, shall file

his and her affidavit, under such regulations as the Secretary of the Treasury may prescribe, that he or she makes the entry in his or her own name, for his or her own benefit; and not in trust for another: *Provided, further,* That all actual settlers, being housekeepers, upon the public lands, shall have the right of pre-emption to enter, within six months after the passage of this act, not exceeding the quantity of one half quarter section, under the provisions of this act, to include his or their improvements, under such regulations as have been, or may be, prescribed by the Secretary of the Treasury: and in cases where two persons shall live upon the same quarter section, subject to be entered under the provisions of this act, each shall have the right to enter that quarter quarter section which includes his improvements.

Under the provisions of this act, no one person is permitted to enter more than one half quarter section, in quarter quarter sections, in his own name, or in the name of any other person; and in no case, unless he intends it for cultivation, or for the use of his improvement.

The following is the form of the affidavit (prescribed by the Secretary of the Treasury, in pursuance of the requirements of the act,) which is to be attached to, and filed with, the application for the entry of the one or two quarter quarter sections, as may be desired, under the privileges conferred by the act:

"I, (or we) do solemnly swear, (or affirm) that the land above described, is intended to be entered for my (or our) personal benefit, and not in trust for another; and that the same is intended for the purposes of cultivation, or (as the case may be) for the use of my (or our) improvement, situate on the _____ of section No. _____ township No. _____ range No. _____. This affidavit to be made before a justice of the peace, or other officer legally authorized to administer oaths.

Pre-emption privilege in favor of housekeepers on the public lands.

The act further provides that "all actual settlers, being housekeepers upon the public lands, shall have the right of pre-emption to enter within six months after the passage of this act, not exceeding the quantity of one half quarter section, under the provisions of this act, to include his or their improvements, under such regulations as have been, or may be, prescribed by the Secretary of the Treasury, and in cases where two persons shall live upon the same quarter section, subject to be entered under the provisions of this act, each shall have the right to enter that quarter quarter section which includes his improvement."

The proof to be adduced to you, that the party applying for the benefit of the act is rightly entitled thereto, is his or her own affidavit before a magistrate, or other officer, duly authorized by law to administer oaths, setting forth the fact that he or she is an actual settler and housekeeper on *public* lands, (*not on lands already purchased from the Government*), and that the half quarter section applied for includes his or her improvement, which affidavit is to be sustained by the affidavits of one or more *disinterested persons*, substantiating the fact to your entire satisfaction.

Form of the affidavit.

I do solemnly swear, that I am an actual settler and housekeeper on a tract of public land, viz: the quarter of section No. _____ in town-

ship No. of range No. and hereby apply to enter
the quarter of the said section, under the provisions of the act
of Congress, approved on the 5th of April, 1832, entitled "An act supplementary to the several laws for the sale of public lands," which will include my improvement.

The operation of this pre-emption privilege, in favor of housekeepers, will exist until the *fifth* day of October next, and I have it in charge from the Secretary of the Treasury, to inform you that this privilege must not have the effect to stay, or interfere with, either public sales or private entries of lands during the same period.

Where the right of pre-emption exists to lands not at this date subject to private entry, and that will be offered at public sale prior to the 5th October next, the evidence of claim, under the act, must be filed with you, and the purchase money paid prior to the day of the public sale, otherwise the pre-emption will not be recognised.

In order to prevent collision between the ordinary private entries, and the pre-emption rights intended to be secured to housekeepers by the act, the Secretary of the Treasury directs, that in all cases of applications to make private entries, within the term of six months, ending on 5th October next, the applicant (not being the pre-emptor) be required to make affidavit in the following mode and form, viz:

I do solemnly swear (or affirm) that the tract of land intended to be applied for, viz: the quarter of section No. town-
ship No. range No. in the district of lands sub-
ject to sale at is not, to the best of my knowledge and belief,
subject to any claim by pre-emption right, under the provisions of the act
of Congress, passed on the 5th April, 1832, entitled "An act supplementary
to the several laws for the sale of public lands."

"In cases where two persons shall live on the same quarter section, subject to be entered under the provisions of this act, each shall have the right to enter that quarter quarter section which includes his improvements," and should any cases exist where the improvements of both parties fall within the same quarter quarter section, they must apply *jointly* for the purchase of the land, which they are respectively entitled to enter under the law. The Receiver's receipt, and Register's certificate will issue in their *joint names*, and they will become co-patentees, and thereby be enabled to make such division of the tract, as may be mutually satisfactory to them.

Of the subdivisions into quarter quarter sections.

The act of 24th April, 1820, entitled "An act making further provision for the sale of the public lands," authorizes the subdivision of quarter sections into half quarter sections, by a line supposed to be run north and south from points to be ascertained on the principles laid down by the act of 11th February, 1805, entitled "An act concerning the mode of surveying the public lands of the United States." Such points are intermediate between the established corners on the lines running east and west.

Under the provisions of the act of 5th April, 1832, the corners and contents of quarter quarter sections, must be ascertained on the principles of the act of 11th February, 1805, by lines running *east* and *west*. Such east and west lines must, therefore, be supposed to run through the section from intermediate points, between the established corners on the sectional

lines which form the eastern and western boundaries of the section, so as to divide each half quarter section into two equal parts. Therefore, the contents of a quarter quarter section, are to be assumed as the one-half of the contents of a half quarter section.

In cases where the sectional lines diverge from the cardinal points, the divisional line, to constitute the quarter quarter sections, will be considered as running parallel to the line forming the northern or southern boundary of the section; for instance, the line constituting quarter quarter sections, in the two southern quarter sections, is to be considered as running parallel to the *southern boundary* of the section, and the line constituting quarter quarter sections, in the two northern quarter sections, is to be considered as running parallel to the *northern boundary* of the section, starting, in each case, from points intermediate between the established corners in the eastern boundary of the section, and running west to join the corresponding intermediate points, between the established corners in the line forming the western boundary of the section.

The act of 5th April, 1832, prescribes that "fractional sections, containing fewer or more than 160 acres, shall, *in like manner*, as nearly as may be practicable, be subdivided into quarter quarter sections, under such rules and regulations as may be prescribed by the Secretary of the Treasury." The Secretary directs that the subdivisions of fractional sections shall be made by the surveyors general, into lots containing the quantity of a quarter quarter section, as nearly as practicable; by which subdivisions you will be governed.

Of the practical operation on the books and maps.

The tract books, as now opened, admit of the entry of sections by half quarters. Where it is practicable to *interline* the entries of quarter quarter sections in a suitable manner, (which can be the case only where the handwriting is small and neat) an interlineation will answer the purpose.

In those cases where the entry in the tract book has been for a quarter or half section, such of the spaces opened for the entry of the same quantity in eighths, as remain vacant, may be occupied by the entry of the quarter quarter sections.

Where it is from any cause inexpedient to *interline* the entries of quarter quarter sections in the regular tract book, they will have to be entered into a "*Miscellaneous Tract Book*" as they occur, *in the order of their dates*, and a reference must be made in the place where such entry ought to appear in the regular tract book to the number of the Receiver's receipt issued on payment for the quarter quarter section, which proceeding will always furnish the means of tracing up the entry.

The map is to be marked in such case with the number of the Receiver's receipt, corresponding in number with the Register's certificate of purchase for the same tract.

The quarter quarter sections are to be described as the northeast, northwest, southeast, and southwest quarters of the northeast, northwest, southeast, or southwest quarters, as the case may require; and the subdivision of fractional sections into quarter quarter sections, as nearly as practicable, are to be designated in the mode to be indicated by the surveyor general in the plat of subdivision which he is required to furnish you.

The Register is requested to furnish the surveyor general, as soon as

practicable, with a schedule of the fractional sections and parts of fractional sections remaining unsold, and which are liable to be subdivided under the provisions of the act of 5th April, 1832.

I am, very respectfully, gentlemen,

Your obedient servant,

ELIJAH HAYWARD,

Commissioner.

To the REGISTER of the Land Office, and
RECEIVER of Public Moneys at ———

GENERAL LAND OFFICE,
July 28, 1832.

GENTLEMEN: Subjoined is a copy of the act of Congress approved on the 14th instant, entitled "An act supplemental to the act granting the right of pre-emption to settlers on the public lands, approved the 29th of May, 1830."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all the occupants and settlers upon the public lands of the United States, who are entitled to a pre-emption according to the provisions of the act of Congress, approved the twenty-ninth of May, eighteen hundred and thirty, and who have not been, or shall not be, enabled to make proof and enter the same within the time limited in said act, in consequence of the public surveys not having been made and returned, or where the land was not attached to any land district, or where the same has been reserved from sale on account of a disputed boundary between any State and Territory, the said occupants shall be permitted to enter the said lands on the same conditions in every respect, as are prescribed in said act, within one year after the surveys are made, or the land attached to a land district, or the boundary line established; and if the said lands shall be proclaimed for sale before the expiration of one year as aforesaid, then they shall be entered before the sale thereof.

SECTION 2. *And be it further enacted,* That the occupants upon fractions shall be permitted, in like manner, to enter the same, so as not to exceed in quantity one quarter section; and if the fractions exceed a quarter section, the occupants shall be permitted to enter one hundred and sixty acres, to include his or their improvement, at the price aforesaid."

The provisions of this law extend to public lands surveyed, or in process of being surveyed, prior to the 29th May, 1831, but where the *township plats* of the same *were not filed* in your office until after the 29th May, 1831, when the act of 29th May, 1830, ceased to operate.

Under the provisions of this law any actual settler or occupant of a quarter section of land, *surveyed as aforesaid*, or of a fraction not exceeding the quantity of one hundred and sixty acres, and who cultivated the same in the year 1829, and had possession thereof on the 29th May, 1830, may be permitted to file proof of his or her right of pre-emption thereto, on the terms and in the mode heretofore prescribed under the said act of 29th May, 1830, at any time *within one year* after the lands were surveyed, and if the lands shall be proclaimed for sale before the expiration of such year, the claim must be duly proved and entered prior to the day of sale, other-

wise the party *forfeits* his right of pre-emption. Where the year since the survey was made and plats thereof returned to your office has expired prior to the date of this act, the right of pre-emption is not vested.

The provisions of this act also extend, under certain restrictions, to lands surveyed on the 29th May, 1831, which were not attached to any land district; also, to any lands reserved from sale on account of a disputed boundary between any State and Territory.

In cases where two or more persons cultivated the same quarter section or fraction in the year 1829, and had possession thereof on the 29th of May, 1830, they are to be permitted to enter the tract in their *joint names*, and the receipt and certificate of purchase will be filled up accordingly, and the patent will issue to them as *tenants in common*. This course will enable the parties to make *any division* of the land they may find expedient for their mutual interest. *No floating rights* accrue under the provisions of the aforesaid act.

All receipts and certificates of purchase issued under the present act, are to be headed thus:

“Pre-emption under act of 14th July, 1832.”

All receipts and certificates of purchase for pre-emption rights under the act of 5th April, 1832, are to be headed thus:

“Pre-emption under the act of 5th April, 1832.”

Your respective monthly abstracts are to indicate opposite each entry of lands under the two aforesaid acts, the fact of the entry being by pre-emption right, and also the day of the act, thus:

“Pre: 14th July, 1832.”

“Pre: 5th April, 1832.”

The provisions of this act do not apply to the Indian reservations in the State of Ohio, the title to which has been recently acquired by the United States, and which are to be sold to the highest bidder agreeably to the treaty stipulations; nor to the lands in Alabama and Mississippi, recently acquired from the Creeks and Choctaws; nor do they apply to lands which have been appropriated by law, or reserved in any manner for the purposes of the Government.

In the execution of the present act, you will be governed by the instructions heretofore given under the act of 29th May, 1830, so far as they are applicable to the circumstances of the existing law.

The present opportunity is embraced to advise you respecting sundry points which have arisen in the execution of the act of 5th April, 1832, entitled “*An act supplementary to the several laws for the sale of the public lands.*”

First. Persons who made settlements *after the 5th day of April, 1832*, are not entitled to the benefits of the act, which intends to confer the right of pre-emption to those only who *were settlers and housekeepers on public lands* (not on land sold by the United States) *at the date of said act*. This right of pre-emption *was vested on the 5th April, 1832*, and six months from that date are allowed to the claimant to prove his right and make his entry; if within that period, the land to which such right *is vested* should be sold at private sale to another, the facts must be *specially reported* by you in a joint communication to this office, and an order will be issued to refund the purchase money.

Second. Where there are two adjoining and contiguous legal subdivisions of the same fractional section, the aggregate quantity of which does

not exceed *eighty acres*, (or the quantity of a half quarter section, as nearly as practicable) they may both be taken by an actual settler and housekeeper residing on one of them, provided there is no bona-fide adverse claimant of a pre-emption right to the other.

Third. Where the improvements of the pre-emptor lie partly in both of two adjoining and contiguous legal subdivisions of the same fractional section, the aggregate quantity of which does not exceed *eighty acres*, (or the quantity of a half quarter section, as nearly as practicable) he may take either or both of such fractions at his option, provided there is no bona fide adverse claimant.

Fourth. In case a pre-emptor has built his house immediately over the corner of a section, he can maintain his claim under the law only to that half quarter section in which the *greatest portion* of his improvement lies.

Fifth. The act of 5th April, 1832, provides, that no person shall be permitted to enter *more than one half quarter* section of land in *quarter* sections, in his own name, or in the name of any other person, and in no case unless he intends it for *cultivation*, or for the *use of his improvement*.

In cases where two adjacent quarter quarter sections are intended to be entered, forming parts of the *same quarter* section, (viz: the east or west halves, or the north or south halves, of the quarter section, as the case may be) the entry, certificate, and receipt are to be for the entire *half quarter* section, as only one patent will be issued on the entry; but in cases where the quarter quarter sections do not form a half quarter section, or are not situate in the same quarter section, there must be two entries, with separate receipts and certificates to correspond.

No attention will be paid to inquiries concerning points on which specific instructions have already been given under the act.

I am, very respectfully,

Your obedient servant,

ELIJAH HAYWARD,

Commissioner.

The REGISTER and RECEIVER of the land office at ———

GENERAL LAND OFFICE,

May 17, 1833.

GENTLEMEN: Subjoined is the copy of an act of Congress, approved on the 2d of March last, entitled "An act to revive the act entitled 'An act supplementary to the several laws for the sale of public lands,' approved the 5th of April, 1832."

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which persons were settlers or occupants of the public land, prior to the 1st day of May, 1832, and were authorized to enter under the provisions of the act entitled 'An act supplementary to the several laws for the sale of public lands,' approved April 5th, 1832, and were prevented from making their entries, in consequence of the public surveys not having been made and returned, or where the land was not attached to any land district, or where the same has been reserved from sale in consequence of a disputed boundary between two States, or between a State and Territory, the said

occupants shall be permitted to enter the said lands on the same conditions, in every respect, as were prescribed in said act, *within one year* after the surveys are made, or the land attached to a land district, or the boundary line established; and if the land shall be proclaimed for sale before the expiration of one year, as aforesaid, then the said settlers or occupants shall be permitted to enter before the sale thereof."

The provisions of the above act give the right of pre-emption to *two quarter quarter sections* to such persons as were entitled to the benefits of a pre-emption entry of two quarter quarter sections of land under act of the 5th of April, 1832, but who were prevented from making an entry from the operation of the causes stated, viz:

1st. Where the public surveys were not made and returned prior to the 5th of October, 1832; or

2d. Where the land was not attached to any land district; or

3d. Where the land has been reserved from sale in consequence of a disputed boundary between two States, or between a State and Territory.

The proof to be adduced to you that the party applying for the benefit of the act is rightfully entitled thereto, is his or her affidavit before a magistrate or other officer duly authorized by law to administer oaths, setting forth the fact that he or she is an actual settler and housekeeper on public lands, (not on lands already purchased from the Government) and that the half quarter section applied for includes his or her improvement: which affidavit is to be sustained by the affidavit of one or more disinterested persons substantiating the fact to your entire satisfaction.

Form of the affidavit.

I do solemnly swear (or affirm) that I am an actual settler, and a house-keeper, on a tract of public land, viz: the _____ quarter of section No. _____ in township No. _____ of range No. _____ and hereby apply to enter the _____ quarter of said section, under the provisions of an act of Congress, approved on the 2d day of March, 1833, entitled "An act to revive the act entitled 'An act supplementary to the several laws for the sale of public lands,'" which will include my improvement: and I do further swear (or affirm) that I have not entered under this act, or under the act of the 5th of April, 1832, to which it is supplemental, at this, or any other land office of the United States, any land in quarter quarter sections, in my own name or in the name of any other person.

In order the further to guard against the violation of the act of the 5th of April, 1832, by persons entering more than two quarter quarter sections, the Secretary of the Treasury has directed that the following affidavit be made before a justice of the peace, or any other officer legally authorized to administer oaths, prior to all entries to be made under that act:

Form of affidavit.

I (or we) do solemnly swear (or affirm) that the land above described is intended to be entered for my (or our) personal benefit, and not in trust for another; and that the same is intended for the purposes of cultivation, (or, as the case may be,) for the use of my (or our) improvement, situated on the _____ of section No. _____ of township No. _____ of range No. _____ and that I (or we) have not entered under the act of the 5th of April, 1832, or under the act of the 2d of March, 1833, at this, or any

other land office of the United States, any land in quarter quarter sections in my (or our) name, or in the name of any other person.

I am, very respectfully,

Your obedient servant,

ELIJAH HAYWARD,

Commissioner.

To the REGISTER and RECEIVER
of the land office at ———.

GENERAL LAND OFFICE, March 1, 1834.

GENTLEMEN: In the construction of the act of Congress approved on the 14th July, 1832, entitled "An act supplemental to the 'Act granting the right of pre-emption to settlers on the public lands,' approved the 29th May, 1830," in the words following, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That all the occupants and settlers upon the public lands of the United States who are entitled to a pre-emption according to the provisions of the act of Congress approved the twenty-ninth day of May, eighteen hundred and thirty, and who have not been, or shall not be, enabled to make proof and enter the same within the time limited in said act, in consequence of the public surveys not having been made and returned, or where the land was not attached to any land district, or where the same has been reserved from sale on account of a disputed boundary between any State and Territory—the said occupants shall be permitted to enter the said lands on the same conditions in every respect as are prescribed in said act, within one year after the surveys are made, or the land attached to a land district, or the boundary line established; and if the said lands shall be proclaimed for sale before the expiration of one year, as aforesaid, then they shall be entered before the sale thereof.

"SEC. 2. *And be it further enacted,* That the occupants upon fractions shall be permitted in like manner to enter the same, so as not to exceed in quantity one quarter section; and if the fractions exceed a quarter section, the occupants shall be permitted to enter one hundred and sixty acres, to include his or their improvement, at the price aforesaid."

And the act approved on the 2d March, 1833, entitled "An act to revive the act entitled 'An act supplementary to the several laws for the sale of public lands,' " in the words following, to wit:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which persons were settlers or occupants of the public land prior to the first day of May, eighteen hundred and thirty-two, and were authorized to enter under the provisions of the act entitled 'An act supplementary to the several laws for the sale of public lands,' approved April fifth, eighteen hundred and thirty-two, and were prevented from making their entries in consequence of the public surveys not having been made and returned, or where the land was not attached to any land district, or where the same has been reserved from sale in consequence of a disputed boun-

dary between two States, or between a State and Territory, the said occupants shall be permitted to enter the said lands on the same conditions in every respect as were prescribed in said act, within one year after the surveys are made, or the land attached to a land district, or the boundary line established; and if the land shall be proclaimed for sale before the expiration of one year, as aforesaid, then the said settlers or occupants shall be permitted to enter before the sale thereof."

The Secretary of the Treasury has decided that the persons to whom the right of pre-emption extended are entitled to make their entries at any time *within a year from the period when the plats of survey were RETURNED and RECEIVED at the proper land office.* It results from this decision:

First. That all settlers on the public lands prior to 30th May, 1831, entitled to the benefits of the act of 29th May, 1830, in cases where the land was in process of being surveyed, between that date and the 29th May, 1831, but the plat thereof not returned to your office within that period, may prove and complete payment for their claims *within one year* from the day on which the plat of the township where the claim lies, *was, or shall be, received at your office.*

Second. That all settlers on the public lands prior to the 1st May, 1832, entitled to the benefits of the act of the 2d March, 1833, in cases where the land was in process of being surveyed prior to the 1st May, 1832, but the plat thereof not returned to your office within that period, may prove their claims, and complete their payments, within one year from the day on which the plat of the township where the claim lies *was, or shall be, received at your office.*

If any township to which this instruction will apply shall be offered for sale prior to the expiration of one year from the day on which the plat thereof has been or shall be received at your office, the pre-emption rights therein must be paid for *prior to the day of the public sale.*

In the location of fractions under the foregoing instructions, the legal subdivisions thereof furnished to you by the surveyor general must be adhered to, so as to give the party the quantity of land to which he is entitled, as nearly as practicable, be the same a little more or less, and in as compact a shape, conformably to those subdivisions, as the nature of the case will admit.

The instructions do not apply, in any manner, to the tracts of country recently obtained by the Government from the Choctaw, Chickasaw, and Creek Indians, in the States of Mississippi and Alabama.

I am, very respectfully, your obedient servant,

ELIJAH HAYWARD,

Comm'r of the General Land Office.

To the REGISTER of the land office

and RECEIVER of public moneys at ———.

GENERAL LAND OFFICE, October 23, 1834.

GENTLEMEN: In consequence of representations made to the Department respecting the operation of the third clause of the instructions contained in the circular letter of 22d July last, I have to inform you that the Secretary of the Treasury, unwilling to withhold the advantages of the late pre-emption law, from applicants who may have meritorious and sub-

stantial claims to its benefits, and who, by reason of circumstances peculiar in their character, have no actual residence on the land claimed, has concluded so to modify the instruction complained of, as to admit, as exceptions from the general principle, such cases of the character referred to, as in the exercise of a sound and liberal discretion on your part, shall appear from facts, satisfactorily proved, to come within the meaning and intent of the act. The following are cited as examples of the cases expressly referred to:

Where the cultivation may have been made by an unmarried person, without family, boarding and lodging with another family resident on a tract adjoining, or in the immediate vicinity of his improvements, or by a married person living in a similar manner, where there has been actual and bona fide intention to reside on the land cultivated, but where the preparation was not complete, or the intention was frustrated by unavoidable accident; where the tract cultivated may have been a necessary and integral portion of a farm or plantation of an individual residing on an adjoining tract, and where, without the aid of the proceeds of such additional cultivation, he could not have maintained himself and family, and continued to reside where he did; or where, by reason of the unhealthy location of the lands cultivated, the individual may have fixed his residence on a neighboring tract. In all these cases, and others analogous in their circumstances and spirit, where the facts are distinctly proved, and where, in the exercise of a sound and liberal discretion, you are satisfied that they come within the meaning and intent of the law, the third clause of the circular letter referred to, which regards the erection of a dwelling house for the purposes of habitation as a requisite of "*possession*," is modified so as to admit the right of entry.

2d. No pre-emption right to section No. 16, reserved for schools, can be sustained under existing laws, nor will the act of 19th June, 1834, admit of a floating right of pre-emption elsewhere, in virtue of a settlement and improvement in the sixteenth section. Individual claimants considering themselves aggrieved, under such circumstances, will have to prefer their claims to Congress.

3d. Where an individual establishes a right of pre-emption to a fractional section containing less than one hundred and sixty acres, or to a half quarter section, the other half of which was sold previous to the date of the act, or to a *residuary* quarter *quarter* of a section, (which residuary quarter quarter must have been made such by locations made under the act of 5th April, 1832, inasmuch as quarter quarters of sections cannot originally be selected as such, under the pre-emption law,) in all such cases, the fraction, the half quarter, or the quarter quarter, is to be regarded as a separate and distinct tract, beyond the quantity of which the party can claim no right to locate elsewhere, or on adjoining lands; but in cases where two or more individuals are settled on any one such tract, the *two first actual sellers* are entitled to enter *in their joint names*, and each of these two is entitled to receive a floating right to eighty acres elsewhere.

4th. Where A settled on and cultivated a tract of public land in 1833, and prior to the 19th June, 1834, sold his right to B, who continued to improve and occupy the same on that day, B is regarded as entitled to the benefits of the act.

5th. Where A cultivated a tract of public land in 1833, and had placed B thereon, as tenant in possession, who continued to improve and cultivate the same on 19th June, 1834, A is regarded as entitled to the right of pre-

emption, on due proof of cultivation and occupancy as required by the act. But in case A, *prior* to the year 1833, had placed a tenant on a tract of public land, who cultivated and possessed, agreeably to the tenor of the act, the right of pre-emption is to accrue to the tenant.

6th. The testimony heretofore required to be taken before a justice of the peace, may also be taken before a notary public, or any other officer duly qualified to administer oaths.

7th. Where there were more than two actual settlers on a tract, floating rights accrue to the *two first* actual settlers, and to *none of the others*.

8th. Quarter quarters of sections are created only by the operation of the act of 5th April, 1832, entitled "An act supplementary to the several laws for the sale of public lands."

The right to enter and make payment for quarter quarters of sections, (lots of forty acres,) under the act of 19th June, 1834, can be claimed only in cases where residuary quarter quarters are found to exist in a section, they having been created separate and distinct legal subdivisions by the peculiar operation of the act of 1832.

While on this subject, I have to mention that, on inspecting the names of purchasers, it is apprehended that due caution is not observed by Registers in operating under the act of 1832, which provides that no one individual can enter more than eighty acres, in tracts of forty acres. Increased vigilance is strictly enjoined in this respect, and in order to *insure* a strict compliance with the law, the Register is hereby required to keep an alphabetical list of the names of purchasers of quarter quarters of sections; which list must always be referred to as a check prior to the admission of entries of land in that mode under the act aforesaid.

9th. In cases where individuals have settled on public lands since the passage of the act of 19th June, 1834, the form of affidavit prescribed in the 14th clause of the circular letter of 22d July last, may be varied to suit the peculiar circumstances of such case, by striking out the words "*and that there was not, at that time, any person residing thereon, or cultivating the same;*" and inserting in lieu thereof, all the facts in the case as they are found to exist.

10th. Military land scrip cannot, under existing laws, be located on any public lands, settled or occupied, "*without the written consent of such settlers or occupants,*" as may be actually residing "on said lands at the time the same shall be entered or applied for." Such settlement or occupancy, therefore, although it may or may not have reference to any existing pre-emption privilege, is a bar to the location of the scrip, without the written consent of the settler or occupant. The form of the affidavit prescribed for such cases by the circular letter of 2d October, 1833, will substantially remain unaltered; but in cases where individuals are desirous of locating scrip, it is not deemed necessary to require from them two separate affidavits; one under the circular of 2d October, 1833, and another under the 14th clause of the circular of 22d July last; but the substance of both those forms may be incorporated into one affidavit.

11th. Payment is to be required in all cases arising under the late pre-emption law *at the time the right of entry is admitted*. In cases arising under the third section, or in such as may be of doubtful character, and which you may deem it necessary to refer for the decision of the Depart-

ment, payment will not be required until a favorable decision is communicated. Meanwhile the land claimed is to be withheld from sale.

I am, very respectfully,

Your obedient servant,

ELIJAH HAYWARD,

Commissioner of the General Land Office.

P. S. It has been the usual practice of this office to acknowledge the receipt of the monthly and quarterly returns. Henceforward that practice, which consumes time, and creates unnecessary labor, will be discontinued. If returns are not promptly rendered, the reason of the delay will be promptly demanded.

The Register is requested to report to the surveyor general lists of such township plats as require renewal in consequence of mutilation or defacement, and also to forward to this office a copy of such report.

The "*Quarterly Account Book*," described in the circular letter of 28th August last, for the use of Receivers, and also a supply of *printed blanks* for making quarterly returns to this office, (in lieu of the form of quarterly accounts heretofore in use,) have both been forwarded by mail some weeks since.

GENERAL LAND OFFICE, July 22, 1834.

GENTLEMEN: Annexed is a copy of an act of Congress, approved 19th June, 1834, entitled "An act to revive the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved May twenty-ninth, one thousand eight hundred and thirty," together with a copy of the former act.

1st. The recent act provides "that every settler or occupant of the public lands, prior to the passage of this act, who is now in possession and cultivated any part thereof in the year 1833, shall be entitled to all the benefits and privileges provided by the act entitled 'An act to grant pre-emption rights to settlers on the public lands,' approved May 29, 1830, and the said act is hereby revived, and shall continue in force two years from the passage of this act, and no longer," to wit: to the 19th June, 1836.

2d. The fact of *cultivation in eighteen hundred and thirty-three*, and that of *possession of the land applied for on the nineteenth June, eighteen hundred and thirty-four*, must be established by the affidavit of the claimant, supported by such corroborative testimony of disinterested witnesses as shall be satisfactory to you both. The evidence must be taken by a justice of the peace, *in the presence* of the Register and Receiver, wherever convenient, and be in answer to such interrogatories, to be propounded by them, as may be best calculated to elicit the truth; and when not convenient for the witnesses to attend before the Register and Receiver, the evidence is to be taken by a justice of the peace, and be in answer to such interrogatories, to be propounded by him, as shall be best calculated to elicit the truth.

The credibility of the testimony is to be certified by the justice of the peace, and by such other persons of the neighborhood as can certify the same.

3d. Possession on 19th June, 1834, and cultivation in 1833, are both essentially necessary to the conferring of the pre-emption privilege, the absence of either of which requisites will vitiate the claim. The building of a mill is a "*possession*," but without actual cultivation, it does not confer the privilege under the law. The extent and nature of the *cultivation* are points concerning which the law is silent. The cultivation of a crop of grain, esculent roots, or other vegetables of ordinary culture in the peculiar section of the country, is to be regarded as sufficient as respects the requisite of "*cultivation*," together with the ordinary fence or other suitable enclosure; or, when no crop or product has been taken from the land, and it shall appear to your satisfaction that the claimant has, in good faith, made the usual preparations for a crop, as when he shall have cleared ground and enclosed the field, and ploughed the soil preparatory to the ensuing seed-time, and with intent to sow or plant, such shall be regarded and taken as a sufficient cultivation to entitle him to the benefit of the act.

The erection of a dwelling house for the purposes of habitation, will be regarded as a requisite of "*possession*."

4th. The provisions of the act are not available to any person or persons who shall fail to make the proof and payment required, before the day appointed for the commencement of the sales of lands including the tract or tracts on which the right of pre-emption is claimed; nor can the right of pre-emption extend to any land which is reserved from sale by act of Congress, or by order of the President, or which by law may have been appropriated for any purpose whatsoever.

5th. Should any tract of land, subject to private entry at the date of the act, be entered at ordinary private sale, and a pre-emption claim be duly established thereto within the term of two years from the date of the act, the former entry is null and void, and the Register and Receiver are hereby required to make *monthly reports* of all such interfering sales, designating the tract, date of sale, name of purchaser, quantity of acres, and purchase money; also, name of pre-emptor, and date when satisfactory proof of pre-emption was admitted. On such reports, orders for repayment will be issued.

6th. Where a person inhabits one quarter section and cultivates another, he shall be permitted to enter the one or the other, at his discretion, provided such occupant shall designate within *six months* from the passage of this act, (viz. from 19th June, 1834,) the quarter section of which he claims the pre-emption, and file in the office of the Register a relinquishment of the right of entry to the other; but in all cases where those six months will expire before the date of the public sale of the township including such claim, the designation and relinquishment must be made prior to the day of such sale.

7. Where an improvement is situate in different quarter sections, the claimant is entitled to enter such two adjacent legal subdivisions, viz: the east and west half quarters as will include his improvement.

8th. Where an improvement is situate on a fraction containing less than the quantity of a quarter section, such fraction must be taken *in lieu of an entire quarter section*. Should the fraction contain more than the quantity of a quarter section, the claimant will be permitted to take *according to the legal subdivisions* of such fraction, so as to include his improvements; and obtain the quantity of one hundred and sixty acres as nearly as practicable, without any further subdivision.

9th. In cases where two or more persons are settled on the same quarter section, the two *first actual settlers*, who cultivated in 1833, and had possession on 19th June, 1834, are entitled to the right of pre-emption. If an equal division of such quarter by a north and south, or east and west line, will not secure to each party his improvements, they must become joint *purchasers* and *patentees* of the entire quarter section; if otherwise, it will be divided so as to secure to the parties, respectively, their improvements; in either case, the said settlers shall each be entitled to a pre-emption of eighty acres of land, elsewhere, in said land district, so as not to interfere with other settlers having a right of preference.

10th. You are requested to make monthly reports of those cases where two persons obtain a pre-emption on the same quarter section.

11th. Transfers of pre-emption rights, prior to the issuing of patents, will not be recognised.

12th. The act of 29th May, 1830, applied only to lands to which the Indian title was extinguished *at that date*. Hence the right of pre-emption to lands to which the Indian title was extinguished *subsequent to that date*, can be claimed only in virtue of cultivation in 1833, and possession on 19th June, 1834.

13th. In making your usual returns to this office, you will, in all cases of purchases under this act, designate them by marking on the returns the certificate of purchase and receipt, thus: "*Pre-emption, act of 1834.*" Separate returns and a distinct series of number for pre-emption "*receipts*" and "*certificates*" are *not admissible*.

14th. Inasmuch as the ordinary private entry of lands, subject thereto at the date of the act, must be permitted to proceed at the hazard of interfering with the pre-emption claims which may be established within the two years allowed by the act, it is indispensably necessary, by way of precaution, to require each applicant at private sale to file with his written "*application*," an affidavit to the following effect, to wit:

"I do solemnly swear, (or affirm,) that since the first day of January, 1834, viz: on or about the day of , I personally inspected the tract of land designated in the annexed application, viz. the quarter of section No. , in township No. , of range No. , in the district of lands subject to sale at , and that there was not, at that time, any person residing thereon, or cultivating the same; and I do not believe that any pre-emption right exists thereto, either under the act of 29th May, 1830, or that of 19th June, 1834."

In case the *party applying* to purchase did not personally inspect the tract, he may be permitted to file, in the above form, the oath, or affirmation, of any person who alleges to have made such personal inspection; and in all cases, you must be satisfied of the credibility of such testimony.

15th. Where the occupant alleges that he is unable or unwilling to pay for a full quarter section, he may be permitted to enter the half quarter, which shall include his improvements, to be either the east or west half of such quarter—the divisional line running north and south, in the mode prescribed by the act of 24th April, 1820; but in such case he will be required to file a relinquishment of his further right of pre-emption for the quantity authorized by the act.

16th. You are each entitled by law to receive from the party interested, a fee of fifty cents on each case of pre-emption admitted under the act.

17th. The evidences adduced in support of pre-emption rights, admitted

under this act, and also the oath required of purchasers at ordinary private sale, are to be carefully enclosed in the appropriate certificates of purchase, and transmitted therewith to this office, accompanied by your joint certificate *as to the credibility of the witnesses*.

The evidences adduced in support of *cases not admitted*, are to be carefully filed in the Register's office, with suitable endorsements thereon.

18th. By the 3d section of the act of 19th June, 1834, persons residing on the public lands, and cultivating the same, prior to the year 1829, but who were deprived of the advantage of the act of 29th May, 1830, by reason of the construction given to the same by the Secretary of the Treasury, are authorized to enter, at the minimum price, one quarter section of the public lands within said land district. This provision can be available only to those whose right to a pre-emption, in virtue of cultivation and possession prior to 1829, shall be established by satisfactory proof; and who, from any cause originating in the restrictions and limitations imposed by the Secretary of the Treasury, which have not had a remedy by the act of 14th July, 1832, or that of 2d March, 1833, have been deprived of the advantages of the act of 1830. When such cases shall be presented you will specially report them, with all the testimony, for the decision of the Department.

19th. Where floating rights to eighty acres are granted, under this act, they must be located and paid for at the time of entry of the tracts on which such floating rights accrue.

In the execution of the act, the utmost vigilance and diligence on your part are requisite to detect fraud, and determine the character and credibility of the testimony. A faithful and impartial discharge of your duty are alike essential to protect the Government from imposition, and the honest claimant in his right.

I am, very respectfully,

Gentlemen, your obedient servant,

ELIJAH HAYWARD,

Commissioner.

P. S. It will be proper to give publicity to the law, and to these instructions, by distributing copies of this circular throughout your land district; for which purpose a number of copies will be furnished. It is also desirable that the newspapers published in your district should *gratuitously* publish the same for the information of the community.

☞ The forms of journal and leger now used by the Register and Receiver, will be discontinued from and after the 1st of October next. A form of *leger* to be substituted by the Receiver, will be furnished as soon as practicable.

AN ACT to revive the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved, May twenty-nine, one thousand eight hundred and thirty.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every settler or occupant of the public lands, prior to the passage of this act, who is now in posses-

sion, and cultivated any part thereof in the year one thousand eight hundred and thirty-three, shall be entitled to all the benefits and privileges provided by the act entitled "An act to grant pre-emption rights to settlers on the public lands," approved May twenty-nine, one thousand eight hundred and thirty; and the said act is hereby revived, and shall continue in force two years from the passage of this act and no longer.

SEC. 2. *And be it further enacted*, That where a person inhabits one quarter section and cultivates another, he shall be permitted to enter the one or the other at his discretion: *Provided*, Such occupant shall designate, within six months from the passage of this act, the quarter section of which he claims the pre-emption under the same.

SEC. 3. *And be it further enacted*, That all persons residing on the public lands, and cultivating the same, prior to the year eighteen hundred and twenty-nine, and who were deprived of the advantages of the law passed on the twenty-ninth May, eighteen hundred and thirty, by the constructions placed on said law by the Secretary of the Treasury, be, and they are hereby, authorized to enter, at the minimum price of the Government, one quarter section of the public lands, within said land district.

Approved, June, 19, 1834.

ANDREW JACKSON.

AN ACT to grant pre-emption rights to settlers on the Public Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That every settler or occupant of the public lands, prior to the passage of this act, who is now in possession, and cultivated any part thereof in the year one thousand eight hundred and twenty-nine, shall be, and he is hereby, authorized to enter, with the Register of the land office for the district in which such lands may lie, by legal subdivisions, any number of acres, not more than one hundred and sixty, or a quarter section, to include his improvement, upon paying to the United States the then minimum price of said land: *Provided however*, That no entry or sale of any lands shall be made, under the provisions of this act, which shall have been reserved for the use of the United States, or either of the several States, in which any of the public lands may be situated.

SEC. 2. *And be it further enacted*, That if two or more persons be settled upon the same quarter section, the same may be divided between the two first actual settlers, if, by a north and south or east and west line, the settlement or improvement of each can be included in a half-quarter section; and in such case the said settlers shall each be entitled to a pre-emption of eighty acres of land elsewhere in said land district, so as not to interfere with other settlers having a right of preference.

SEC. 3. *And be it further enacted*, That prior to any entries being made under the privileges given by this act, proof of settlement or improvement shall be made to the satisfaction of the Register and Receiver of the land district in which such lands may lie, agreeably to the rules to be prescribed by the Commissioner of the General Land Office for that purpose, which Register and Receiver shall each be entitled to receive fifty cents for his services therein. And that all assignments and transfers

of the right of pre-emption given by this act, prior to the issuance of patents, shall be null and void.

SEC. 4. *And be it further enacted*, That this act shall not delay the sale of any of the public lands of the United States beyond the time which has been, or may be, appointed for that purpose, by the President's proclamation; nor shall any of the provisions of this act be available to any person or persons, who shall fail to make the proof and payment required before the day appointed for the commencement of the sales of lands including the tract or tracts on which the right of pre-emption is claimed; nor shall the right of pre-emption, contemplated by this act, extend to any land which is reserved from sale by act of Congress, or by order of the President, or which may have been appropriated for any purpose whatever.

SEC. 5. *And be it further enacted*, That this act shall be, and remain, in force for one year from and after its passage.

Approved, *May* 29, 1830.

ANDREW JACKSON.

